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Prosecuting Bride Kidnapping: The Law Isn't Enough; Aligning Cultural Norms with the Law

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PROSECUTING BRIDE KIDNAPPING: THE LAW ISN'T ENOUGH; ALIGNING CULTURAL NORMS WITH THE LAW

*Alexandria McKenna Lundberg**

ABSTRACT

The struggle between cultural and legal norms suggests that more than a change in law is necessary to change cultural practices. If law enforcement is not influenced by existing cultural norms, the law may have little effect in prosecuting bride kidnapping. This Note, focusing on Kyrgyzstan, argues that current legal responses to bride kidnapping are insufficient to protect vulnerable women. Instead, a more comprehensive strategy—like that of addressing female genital mutilation—would better address the factors and settings that create circumstances of vulnerability and violence.

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INTRODUCTION

20-year-old Burulai Turdaaly Kyzy was shopping in Sosnovka, Kyrgyzstan when she was abducted for the second time in two months by a man who sought Burulai as his bride.¹ Burulai and her kidnapper were detained by the local police, but when she and her family refused the kidnapper's advances, he brutally stabbed her and carved Burulai's and her fiancé's initials into her body.² The attack occurred in the police station and Burulai's death, and the apparent police negligence, gathered global attention by pointing toward the consistent presence and brutality of bride kidnapping.³ Considering that police left Burulai

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1. Maya Oppenheim, *Women at Risk of Murder Over Failure to Crack Down on Bride Kidnapping in Kyrgyzstan, Experts Warn*, INDEPENDENT (May 28, 2019), <https://www.independent.co.uk/news/world/asia/bride-kidnapping-forced-marriage-women-murder-kyrgyzstan-hrw-a8933351.html> [https://perma.cc/RDT2-D8TC]; see also Catherine Putz, *A Bride Kidnapping in Kyrgyzstan Ends in a Young Woman's Death*, DIPLOMAT (June 1, 2018), <https://thedi diplomat.com/2018/06/a-bride-kidnapping-in-kyrgyzstan-ends-in-a-young-womans-death/> [https://perma.cc/3829-4R8P].
 2. Oppenheim, *supra* note 1; Putz, *supra* note 1.
 3. Nurzhan Toktonazarova, *Kyrgyz Bride Kidnapping Ends in Brutal Stabbing, Prompting Outrage*, RFERL (May 29, 2019), <https://www.rferl.org/a/kyrgyz-bride-kidnapping-ends-in-brutal-stabbing-prompting-outrage/29257873.html> [https://perma.cc/Z9BJ-ZBDS]. See also Hillary Margolis, *Young Woman's Murder in Kyrgyzstan Shows Cost of 'Tradition'*, HUM. RTS. WATCH (May 31, 2018), <https://www.hrw.org/news/2018/05/31/young-womans-murder-kyrgyzstan-shows-cost-tradition> [https://perma.cc/X3XE-QTAY]; AFP, *Burulai, One of Many Victims of the Tradition of 'Bride Kidnapping' in Kyrgyzstan*, EXPRESS TRIBUNE (July 17, 2018), <https://tribune.com.pk/story/1760086/3-burulai-one-many-victims-tradition-bride-kidnapping-kyrgyzstan/> [https://perma.cc/XD7H-DMMW].

and her attacker alone together, her murder highlighted police apathy toward the practice despite its illegality.⁴

Bride kidnapping occurs across the world but is most prevalent in the Caucasus and Central Asia.⁵ Bride kidnapping is often a form of child marriage and forced marriage.⁶ Some groups use symbolic bride kidnapping as part of wedding traditions.⁷ Bride kidnapping, particularly in Kyrgyzstan, is considered a viable alternative to singleness for young men, especially when they are unable to pay the traditional bridal dowry.⁸ Young women often agree to the marriage because it is socially preferable to be married to your kidnapper than to be unwed.⁹

While bride kidnapping is illegal in every country where it occurs, the practice persists.¹⁰ Despite ratifying the Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”), nearly 12,000 brides are kidnapped annually in Kyrgyzstan.¹¹ Bride kidnapping is similar to female genital mutilation (“FGM”) in that it is a culturally-persisted, violent, and systematic oppression to women’s rights and involves matriarchal figures perpetuating the practice.

Section I of this Note describes the practice of bride kidnapping, with a focus on Kyrgyzstan, and the related domestic and sexual violence directed toward women. Section I further discusses the detrimental psychological and physical health impacts bride kidnapping has on victims and their children. Section II describes female genital mutilation, current global combats to the practice, and the similarities

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4. Toktonazarova, *supra* note 3. Cynthia Werner et al., *Bride Kidnapping in Post-Soviet Eurasia: A Roundtable Discussion*, 37 CENT. ASIAN SURVEY, 582, 592 (2018).
 5. *See generally id.*
 6. Comm. on the Elimination of Discrimination against Women, Report of the Inquiry Concerning the Kyrgyz Republic Under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, U.N. Doc. CEDAW/C/OP.8/KGZ1, at 3 (Sept. 21, 2018) [hereinafter CEDAW Report].
 7. *See* Russell Kleinbach et al., *Kidnapping for Marriage (ala kachuu) in a Kyrgyz Village*, 24 CENT. ASIAN SURVEY 191, 191–192 (2005).
 8. *See* Cynthia Werner, *Bride Abduction in Post-Soviet Central Asia: Marking a Shift Toward Patriarchy Through Local Discourses of Shame and Tradition*, 15 J. ROYAL ANTHROPOLOGICAL INST. 314, 326 (2009) (explaining that, for families with fewer financial resources, bride kidnapping reduces and delays wedding costs without eliminating the expected celebrations).
 9. *Id.* at 322–325.
 10. Werner et al., *supra* note 4, at 589.
 11. CEDAW Report, *supra* note 6, at 4.

between FGM and bride kidnapping. Section III addresses the current legal barriers to prosecuting bride kidnapping in Kyrgyzstan. Section IV analyzes the dichotomy between the law and communal cultural pillars while exploring how the law changes cultural norms, if at all. Finally, Section V recommends a comprehensive policy strategy to better prosecute kidnappers while empowering women to seek recourse. There is no quick fix to cultural norms that disproportionately harm women, but long-term, comprehensive strategies like those implemented to combat FGM can cause positive change for women in Kyrgyzstan.

I. DESCRIPTION OF BRIDE KIDNAPPING

Bride kidnapping can be a tricky topic to define, let alone address. The term bride kidnapping describes both forced abductions and consensual elopements.¹² In most nations, bride kidnapping is considered a sex crime rather than a valid form of marriage.¹³ But for some countries, bride kidnapping is an accepted and ingrained cultural practice.¹⁴ Since bride kidnapping practices vary dramatically—from a staged elopement to brutal act of violence—it can be difficult to ascertain those that should be eradicated versus consensual and autonomous choices made between a bride and groom.

Important factors, like the prior relationship between the man and woman, motives for kidnapping, extent of the woman's consent to marriage before being kidnapped, extent of both families' knowledge of the kidnapping plan, existence of co-conspirators, use of deception and force, response of the bride, and the outcome of the kidnapping vary dramatically across each abduction.¹⁵ The common thread between these instances and renditions of bride kidnapping is the perception that women are items for men to steal.¹⁶

A. *The Practice: Take the Girl and Run.*

Scholars distinguish four different marriage practices involving bride abduction: (1) wife raiding, (2) genuine bride theft, (3) mock bride theft, and (4) ceremonial capture.¹⁷ “Wife raiding” involves an attack

12. See generally Barbara Ayres, *Bride Theft and Raiding for Wives in Cross-Cultural Perspective*, 47 ANTHROPOLOGICAL QUARTERLY, 238-52 (1974); Werner, *supra* note 8, at 315.

13. Aizat Aisarakunova, *Globalization and Kyrgyz Traditional Culture*, 54 CENT. ASIATIC J. 1, 3 (2010).

14. *Id.*

15. See Werner et al., *supra* note 4, at 582–583.

16. *Id.* at 587. See also Werner, *supra* note 8.

17. Werner, *supra* note 8, at 315.

in which men from one community collectively abduct women from another.¹⁸ With “genuine bride theft,” the groom targets and abducts a specific woman—typically from his community.¹⁹ The groom’s family then provides the bride’s family with an apology or compensation and usually establishes affinal relations with the bride’s family.²⁰ In “mock bride theft,” the bride pretends to resist her abductor and postures herself as a helpless victim and obedient daughter but is actually eloping by choice.²¹ Finally, with “ceremonial capture,” abduction is a ritual performance that takes place with the full knowledge and consent of the bride and her family.²² *In this Note, it is necessary to differentiate between a consensual elopement and nonconsensual kidnapping. Unless expressly stated, any further mention of bride kidnapping encompasses the idea of nonconsensual abduction or “genuine bride theft.”*

In some societies, these four practices coexist.²³ This makes prosecuting genuine bride theft—the most harmful and violent method—challenging, as consent is muddy and intentions are uncertain.²⁴ Such is the case with Kyrgyzstan where wife raiding is absent, but genuine bride theft, mock bride theft, and ceremonial capture exist concomitantly.²⁵ In Kyrgyzstan, these three practices are collectively referred to as *kız ala kachuu*, translating literally to “take the girl and run.”²⁶

Generally, in Kyrgyzstan’s bride kidnapping tradition, a man targets a woman to be his bride and abducts her with the assistance of his conspiring friends and family.²⁷ The woman is forcibly taken to her kidnapper’s parents’ house, where wedding ceremony preparations are underway.²⁸ She is then pressured by the groom’s female relatives to accept the marriage, wear a ceremonial veil that signifies acceptance of

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. See Lesia Nedoluzhko & Victor Agadjanian, *Between Tradition and Modernity: Marriage Dynamics in Kyrgyzstan*, 52 DEMOGRAPHY 861, 864 (2015); See also Werner, *supra* note 8.

24. See Werner, *supra* note 8, at 315.

25. *Id.*

26. *Id.*

27. CHARLES BECKER ET AL. FORCED MARRIAGE: MODELS OF ALA-KACHUU 3 (2017).

28. CEDAW Report, *supra* note 6, at 5.

the marriage, and write a letter to her parents.²⁹ Most women ultimately agree to the marriage as it could bring shame to her and her family if she refused.³⁰ Once the woman or her parents give consent to the marriage, the kidnapper's family celebrates.³¹ Typically, the new bride is sexually assaulted or raped following the wedding ceremony by her new husband to consummate the marriage.³² The groom's family then sends an emissary to the bride's family to apologize, announce her consent, and discuss the wedding.³³

Scholars maintain that *kyz ala kachuu* is based on a patriarchal assumption that a woman is her family's property.³⁴ Generally, the groom's family must provide a bridal payment or dowry, so the bride is stolen by the groom and his family to avoid paying the traditional bride price.³⁵ The view that women are things to be stolen fundamentally unites the different variations of bride kidnapping practices.³⁶ While this Note addresses bride kidnapping in Kyrgyzstan and suggests remediation strategies, each policy recommendation echoes abhorrence toward the appraisal of women as chattel. Such perpetual and systemic ideas that women are things to be stolen is deplorable and inconsistent with international law.³⁷

B. *A Culture of Abducting Brides*

Kyrgyzstan has experienced a revival of bride kidnapping despite the Soviet Union's sweeping legislation to liberate women and ban the

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29. Charles Becker et al., *Forced Marriage and Birth Outcomes*, 54 DEMOGRAPHY 1, 4 (2017) [hereinafter *Birth Outcomes*]. In Kyrgyz society, a family's honor is linked to feminine virtue and modesty; if a daughter, wife, or sister conducts herself unbecomingly, she risks bringing shame to herself and damaging her family's reputation. Even rumors of immodesty can dishonor a family. If a woman returns home after being subjected to *kyz ala kachuu*, there is a presumption of sexual interaction between the woman and her kidnapper. Further, a woman who rejects her abductor is often considered stubborn and belligerent, thereby establishing herself as a less-desirable spouse and minimizing her chances of marrying again. See generally Werner, *supra* note 8.
30. Werner et al., *supra* note 4, at 583.
31. CEDAW Report, *supra* note 6, at 5.
32. *Id.*
33. BECKER ET AL., *supra* note 27, at 4.
34. Werner et al., *supra* note 4, at 587.
35. See Werner, *supra* note 8, 326.
36. Werner et al., *supra* note 4, at 587.
37. G.A. Res. 34/180, Convention on the Elimination of All Forms of Discrimination against Women (Dec. 18, 1979).

practice in the 1920s.³⁸ In pre-Soviet Kyrgyzstan, bride kidnappings were unusual occurrences.³⁹ Men abducted brides in situations where the bride's father refused a marriage, disliked the groom's family, demanded an excessive dowry, or violated a matchmaking agreement.⁴⁰ Bride kidnapping practices are essentially limited to ethnic-Kyrgyz, who account for 72% of the population.⁴¹ With few exceptions, other ethnic groups do not engage in kidnapping but marry through either love or arranged marriages.⁴² That Kyrgyz tolerate kidnapping, while more conservative Uzbeks and Tajiks do not, is an unexplained phenomenon.⁴³ Religion does not serve as a compelling explanation, given that most of the Kyrgyzstan population—including the ethnic-Kyrgyz, Uzbek, and Tajik groups—is Muslim and bride kidnapping has no basis in Islam.⁴⁴

Kidnappers and their families may have several economic, familial, and social reasons to abduct a bride. First, high rates of poverty and unemployment in some areas make it difficult for families to pay wedding expenses.⁴⁵ Men who kidnap have often experienced rejection for their financial status since a family's socioeconomic standing can harm a man's ability to attract a wife.⁴⁶ But, poverty is not the exclusive proprietor of abduction. Although kidnapping is uncommon at the very wealthiest of society, it is not sequestered to the poorest.⁴⁷

Second, many men experience extreme pressure to marry by a certain age.⁴⁸ Opting out of marriage, delaying marriage, or resisting

38. Werner, *supra* note 8, at 316.

39. *Id.* at 320. Kyrgyzstan gained independence from the Soviet Union on August 31, 1991. MATHIJS PELKMANS, *Shattered Transition: The Reordering of Kyrgyz Society, in* FRAGILE CONVICTION: CHANGING IDEOLOGICAL LANDSCAPES IN URBAN KYRGYZSTAN 18 (2017).

40. See Kleinbach et al., *supra* note 7, at 192; See also Werner, *supra* note 8, at 320.

41. *Kyrgyzstan Population 2020*, WORLD POPULATION REVIEW <https://worldpopulationreview.com/countries/kyrgyzstan-population/> [<https://perma.cc/D9MU-4A8Z>].

42. Susan Steiner & Charles Becker, *How Marriages Based on Bride Capture Differ: Evidence from Kyrgyzstan*, 41 DEMOGRAPHIC RSCH. 579, 582 (2019).

43. *Birth Outcomes*, *supra* note 29, at 1404

44. *Id.*

45. Werner et al., *supra* note 4, at 588.

46. *Id.*

47. BECKER ET AL., *supra* note 27, at 2.

48. Werner et al., *supra* note 4, at 588.

marriage can stimulate criticism from family, friends, and society.⁴⁹ In Kyrgyzstan, ideals of adulthood and masculinity often gravitate around having a wife and children.⁵⁰ Sometimes the fear of parental disapproval motivates young men to abduct a bride.⁵¹

Third, despite bride kidnapping being illegal and carrying severe penalties, cultural attitudes that prevent women from reporting and perpetrators from being punished undermine these legal deterrents.⁵² Of these explanations, poverty is the most obvious pressure seeming to lead men to kidnap in consensual elopements.⁵³ The alternative—proposing marriage directly—requires a steep financial commitment.⁵⁴ But, financial hardship is less of an explanation for nonconsensual kidnappings.

Following a kidnapping, the victim's parents face a terrible choice: do they accept this marriage or take their daughter home and risk her future? If she has been in the house too long, there is an implication of sexual encounter which can bring deep shame to the entire family and minimize her chances of marrying again.⁵⁵ Commonly, the bride is raped before accepting the proposal as an inducement to stay;⁵⁶ even if the woman is not sexually assaulted, there is a societal presumption that she is no longer a virgin.⁵⁷ When marriage is central to a woman's wellbeing, parents might choose a kidnapped marriage over an uncertain future for their daughter.⁵⁸ Social pressure and parental

49. *Id.*

50. *Id.* at 590.

51. *Id.* at 588.

52. Adela Suliman, *Kyrgyzstan's Kidnapped Brides Use Fashion and Flags to End Marriage Taboo*, REUTERS (Jan. 9, 2019), <https://www.reuters.com/article/us-kyrgyzstan-women-feature/kyrgyzstans-kidnapped-brides-use-fashion-and-flags-to-end-marriage-taboo-idUSKCN1P4038> [perma.cc/5QSA-F4KE].

53. Werner et al., *supra* note 4, at 589.

54. Lin Zhao, *Bride Kidnapping in Kyrgyzstan*, DUKE J. ECON., Spring 2017, at 1, 2.

55. Werner et al., *supra* note 4, at 590.

56. *Kyrgyzstan: New Rape Case Highlights Need for Immediate Action to End Appalling 'Bride Kidnapping Practice'*, AMNESTY INT'L (June 15, 2018), <https://www.amnesty.org/en/latest/news/2018/06/kyrgyzstan-new-rape-case-highlights-need-for-immediate-action-to-end-appalling-bride-kidnapping-practice/>. [https://perma.cc/FCW8-E2ZC].

57. *Id.*

58. *See* Werner et al., *supra* note 4, at 590.

coercion play huge roles in a woman's decision to stay in a marriage.⁵⁹ Since many parties must agree—including the bride, groom, and both parties' parents—actual and willful consent is difficult to discern.⁶⁰

The persistence of masculine cultural values, including ideals of female honor rooted in virginity and docility, perpetuate violence toward women.⁶¹ Proponents of *kyz ala kachuu* retort that the practice is largely or entirely consensual and is reflective of a stylized ritual involving willing participants.⁶² In this ritual, brides must make a visible show of resistance to exhibit virginity and purity, while actual resistance is minimal or nonexistent.⁶³ This claim, however, is inconsistent with prevalent social reports and the Republic of Chechnya's actions to eradicate bride kidnapping in the Russian Caucasus.⁶⁴ As long as Kyrgyzstan's cultural structure encourages masculine control over women, the legal deterrent against bride kidnapping will never take effect.

C. Violence Against Women

Most bridal kidnappings result in marriage.⁶⁵ Because bride kidnapping is commonly defended as a consensual elopement,⁶⁶ it is necessary to measure the harmful outcomes to undermine this notion. Women may suffer sexual, psychological, and physical harm as a result of coercion to marry; women are often sexually assaulted, subjected to domestic violence, abandoned, socially isolated, forced into economic dependence, and denied education.⁶⁷ Victims are often unable to

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59. Noor O'Neill Borbieva, *Kidnapping Women: Discourses of Emotion and Social Change in the Kyrgyz Republic*, 85 ANTHROPOLOGICAL Q. 141, 149 (2012) (discussing the intense social and familial pressures placed on both men and women in Kyrgyzstan to marry by a certain age).
60. See generally Kleinbach et al., *supra* note 7. See also Werner, *supra* note 8.
61. CEDAW Report, *supra* note 6, at 4.
62. See generally Marina Marshenkulova, *Kidnapping the Bride*, RUSSIAN LIFE, Mar.–Apr. 2015.
63. See Zhao, *supra* note 54, at 2.
64. Roman Kiyshko, *Ombudsman: Bride Abduction Eradicated in Chechnya*, ROSSIYSKAYA GAZETA (Nov. 28, 2017), <https://www.rg.ru/2017/11/28/reg-skfo/ombudsmen-chechni-v-regione-iskorenili-pohishchenie-nevest.html> [<https://perma.cc/9BF6-P6J5>].
65. Sarah Amsler & Russel Kleinbach, *Bride Kidnapping in the Kyrgyz Republic*, 4 INT'L J. CENT. ASIAN STUD., 1, 18 (1999).
66. *Id.* at 15.
67. EMMA PSAILA ET AL., FORCED MARRIAGE FROM A GENDER PERSPECTIVE, POLICY DEP'T C: CITIZENS' RTS. AND CULTURAL AFF. 12 (2016). See also CEDAW Report, *supra* note 6, at 7; *Id.* at 6, 9. Bride

support themselves and their children if their husband abandons or divorces them, leaving them with few options for recourse.⁶⁸

Women subjected to bride kidnapping and successive forced marriage experience higher instances of domestic violence and higher suicide rates.⁶⁹ In three separate instances between 2010 and 2012, young women from the Issyk-Kul province committed suicide after being kidnapped and raped.⁷⁰ Despite the severity of the injustice, only one perpetrator was sentenced to six years in prison for incitement to suicide, rape, and forced marriage.⁷¹ Despite the verdict's leniency, given the severity of the charges, this sentencing is a rare exception to a persistent atmosphere of impunity.⁷² Any notion that most bride kidnappings are consensual and that women struggle from their perpetrators to portray their purity is undermined by numeric data indicating high rates of sexual and domestic violence and less-healthy offspring.⁷³

1. Domestic and Sexual Violence

In Kyrgyzstan, bride kidnapping is widely accepted and reinforces social ideals of masculinity.⁷⁴ Women typically stay with their kidnapper-turned-husband because of extreme social and familial pressure.⁷⁵ Consequently, domestic and sexual violence is disproportionately prevalent in forced or kidnap-based marriages.⁷⁶

Although most bride kidnappings do not involve rape prior to the bride's acceptance of the marriage, sexual assault is a prevalent force

kidnapping victims often rely on the State for financial assistance to continue their educations or care for children following the termination of a marriage, *id.*

68. Azita Ranjnar, *The Bride Kidnapping Epidemic of Kyrgyzstan*, ATLANTIC (May 11, 2012), <https://www.theatlantic.com/international/archive/2012/05/the-bridenapping-epidemic-of-kyrgyzstan/256992/> [https://perma.cc/33CY-7Q3U].
69. CEDAW Report, *supra* note 6, at 8–9.
70. Quishloq Ovozi, *Bride Kidnapping in Kyrgyzstan*, RFERL (May 29, 2014), <https://www.rferl.org/a/bride-kidnapping-in-kyrgyzstan/25403604.html> [https://perma.cc/ZXY5-9WGH].
71. *Id.*
72. *Id.*
73. Werner et al., *supra* note 4, at 586, 587; *See* BECKER ET AL., *supra* note 27.
74. CEDAW Report, *supra* note 6, at 4.
75. Ranjnar, *supra* note 68.
76. CEDAW Report, *supra* note 6, at 7.

in stealing a woman and forcing her to stay with her kidnapper.⁷⁷ Abductions involving rape psychologically influence a woman to accept her kidnapper and his family's pressures to marry him; if she refuses, it is unlikely she will be considered marriable again by her community.⁷⁸ When a woman's social status is so closely tied to marriage, some women may prefer to stay with their abusers than live as social outcasts.⁷⁹ Of the 12,000 annual bride kidnappings in Kyrgyzstan, approximately 2,000 women report being raped by their kidnapper.⁸⁰ Some brides reported their husbands were alcoholic and abusive, married a second wife, or abandoned them.⁸¹

But husbands are not the only domestically abusive members of the bride's new family. Kidnapping victims often describe exploitation and trauma inflicted by their husband's family members who force them to do manual labor, deny them education, and mistreat or humiliate them.⁸² Often, higher-ranked matriarchs exert extensive control over the new bride, including over her daily schedule, housework, contact with others, and decisions related to sex, reproduction, and child-rearing.⁸³ New brides are expected to give their in-laws, particularly their mothers-in-law, complete obedience and servitude.⁸⁴ The newest bride takes over the bulk of household responsibilities once undertaken by the mother-in-law and other female members of the household.⁸⁵ As the least-powerful-adult in the family, the new bride is easily exploited, and it is common for mothers-in-law to physically and psychologically abuse new brides.⁸⁶ Not infrequently, the new bride is beaten and insulted incessantly by her mother-in-law and sisters-in-law (themselves once the new bride in the family), thus reinforcing the new bride's powerlessness in the family.⁸⁷

77. HUM. RTS. WATCH, RECONCILED TO VIOLENCE 109, 110 (2006) [hereinafter RECONCILED].

78. *Id.* at 110 (describing that men use rape as a form of coercion and shame; a woman who is raped or perceived to have been raped is often rejected by her family and community).

79. *Id.* at 109, 123

80. Ovozi, *supra* note 70.

81. CEDAW Report, *supra* note 6, at 8.

82. *Id.*

83. RECONCILED, *supra* note 77, at 9.

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

If women report domestic violence, they are often encouraged to reconcile with their abusers instead of obtaining justice.⁸⁸ When filing police reports, bride kidnapping victims often refer to beatings and psychological abuse, but not the actual kidnapping.⁸⁹ Then, only Criminal Code articles related to body injuries of different severity apply.⁹⁰ With so few legal or social vehicles for remedy, and systemically apathetic law enforcement officers, a victim's senses of hopelessness and helplessness is reiterated in her marriage.

2. Low Birth Weight

Brides are not the only ones to suffer from bride kidnapping. Women who experience psychological or physical stress during pregnancy have babies with lower birthweights.⁹¹ Unsurprisingly, infants born to kidnapped brides in Kyrgyzstan have lower birthweights than babies born of non-kidnap-based marriages.⁹² Children born to women in marriages following abduction have birthweights between 1.3% to 6% (between 40 and 200 grams) lighter than those born to mothers in love or arranged marriages.⁹³

While the precise mechanism is uncertain, the most likely causal chain connects bride abduction to maternal stress and, finally, to lower birthweight.⁹⁴ Stress is the most likely cause because nutrition and work effort for women married via *kyl ala kachuu* is effectively the same for women married without a kidnapping.⁹⁵ These findings and their magnitude are consistent with birthweights for children of American women who had suffered severe trauma or domestic abuse from their partner.⁹⁶

Birthweight effects provide clear evidence of trauma to women married via *kyl ala kachuu* because pregnancy tends to follow marriage

88. *Id.* at 20; *id.* at 22 (“NGOs and some government officials stated that government and law enforcement authorities generally believe domestic violence is a private matter rather than a law enforcement matter.”)

89. BERMET STAKEEVA ET AL., ACCESS TO JUSTICE FOR VICTIMS OF BRIDE KIDNAPPING IN KYRGYZSTAN 10 (2011).

90. *Id.*

91. *Birth Outcomes*, *supra* note 29, at 6.

92. *Id.* at 14.

93. BECKER ET AL., *supra* note 27, at 6.

94. *Id.*

95. *Id.*

96. See Anna Aizer, *Poverty, Violence, and Health: The Impact of Domestic Violence During Pregnancy on Newborn Health*, 46 J. HUM. RESOURCES 518 (2011) (explaining the negative relationship between violence during pregnancy and newborn health and finding that a hospitalization for assault while pregnant reduces birthweight by 163 grams).

quickly in Kyrgyzstan, and an infant's postnatal environment does not affect birthweight.⁹⁷ Maternal trauma, stress, and strain result in smaller, sicker babies.⁹⁸

3. Suicide

In some cases, bride kidnapping victims are prompted to commit suicide.⁹⁹ Research into victims of bride kidnapping further reveals the highly detrimental psychological impact forced marriage can have on women.¹⁰⁰ Self-harm and suicide are also linked to forced marriage—significantly affecting women from South Asia.¹⁰¹ It is not unknown for desperate girls, unwilling to marry a man they do not know or love, to commit suicide.¹⁰²

In 2012, two 18-year-old university students from the Issyk-Kul region committed suicide after they were kidnapped for marriage and then raped.¹⁰³ Although no direct studies link Kyrgyzstani bride kidnapping and suicide, the evidence that forced marriage is linked to increased instances of suicide is overwhelming.¹⁰⁴ At the very least,

97. BECKER ET AL., *supra* note 27, at 6.

98. *See generally* Nigel Paneth, *The Problem of Low Birth Rate*, 5 THE FUTURE OF CHILDREN 19 (1995).

99. *See* Mabur Ahmed, *Latest Suicide Case of Bride Kidnapping Victim*, RESTLESS BEINGS (last visited Mar. 11, 2020), <https://www.restlessbeings.org/articles/latest-suicide-case-of-bride-kidnapping-victim> [https://perma.cc/XF9U-3UDT]; Lucio Valerio Sarandrea, *In Kyrgyzstan a New Law Protects Girls Against Early Marriage*, U.N. DEV. PROGRAMME (Nov. 25, 2016), <https://www.eurasia.undp.org/content/rbec/en/home/blog/2016/11/25/In-Kyrgyzstan-a-new-law-protecting-girls-signals-dawn-of-a-new-day.html> [perma.cc/HT8J-7KDB].

100. *See generally* M. I. Husain et al., *Self-harm in British South Asian Women: Psychosocial Correlates and Strategies for Prevention*, 5 ANNALS OF GEN. PSYCHIATRY 7 (2006).

101. *Id.*

102. Mariam Ouattara et al., *Forced Marriage, Forced Sex: The Perils of Childhood for Girls*, 6 GENDER AND DEV. 27, 28 (1998); STAKEEVA, *supra* note 89, at 10.

103. CEDAW Report, *supra* note 6, at 5–6.

104. *Compare* STAKEEVA, *supra* note 89, at 10 (noting the link between specific instances of bride kidnapping and victims committing suicide), and M. I. Husain et al., *supra* note 100 (discussing the correlation between depression, self-harm, and suicide in British South Asian women), with Tim Arango, *Where Arranged Marriages are Customary, Suicides Grow More Common*, N.Y. TIMES (June 6, 2012) (“[T]he marginalization of women and the view of the woman’s role as peripheral contributed to the recent suicides The way to solve this is to put an end to forced marriages.”),

women who are abducted show 20–25% greater signs of severe depression than those married via consensual marriages.¹⁰⁵

4. Shame and Tradition

In Kyrgyzstan's cultural landscape, law and honor are fundamental values.¹⁰⁶ But, when honor-seeking practices cause private violence, honor becomes a subversive value the law struggles to address. Issues of honor and shame uniquely disadvantage Kyrgyzstani women. In 2018, CEDAW reported many bride kidnapping victims felt shocked and humiliated after an abduction, but still chose to marry their kidnappers out of shame from being raped.¹⁰⁷ Victims' families were reluctant to allow them to return home for fear of the dishonor it could bring to the family—regardless of whether the victim experienced sexual violence.¹⁰⁸ Women who run from their kidnappers are stigmatized and presumed to have lost their virginity, which can make it difficult for them to find an alternative husband in the future.¹⁰⁹

When traditional gender expectations tie feminine honor to perceived virginity, victims and their families often keep bridal kidnappings and related abuse away from the public sphere.¹¹⁰ Cultural discourses of shame and tradition allow men to assert control over women's honor, autonomy, and sexuality in Kyrgyzstan. These themes of tradition and shame relating to women's sexuality and chastity parallel cultures practicing FGM. But, where the international community sees little success in eliminating bride kidnapping, there is progress in battling FGM. These strategies and successes aimed toward abolishing FGM provide a legal and cultural policy blueprint for eradicating bride kidnapping.

II. FEMALE GENITAL MUTILATION

Female genital mutilation encompasses all procedures involving partial or total removal of the external female genitalia or other damage

<https://www.nytimes.com/2012/06/07/world/middleeast/more-suicides-in-iraq-region-where-arranged-marriage-is-common.html>
[<https://perma.cc/44NY-M5T3>], and Saxby Pridmore & Garry Walter, *Suicide and Forced Marriage*, 20 MALAYSIAN J. MED. SCI. 47, 48 (2013) (discussing that several cases, including those from the United Nations, make clear that forced marriage not infrequently leads to suicide).

105. BECKER ET AL., *supra* note 27, at 4.

106. ANVAR BUGAZOV, SOCIO-CULTURAL CHARACTERISTICS OF CIVIL SOCIETY FORMATION IN KYRGYZSTAN, 90 (2013) (ebook).

107. CEDAW Report, *supra* note 6, at 5.

108. *Id.* at 1.

109. *Id.* at 5.

110. *Id.*

to the female genital for non-medical reasons.¹¹¹ The World Health Organization began opposing FGM in the late 1970s, but focused on health concerns and rarely criticized local culture.¹¹² The World Health Organization, together with the United Nations International Children's Emergency Fund (UNICEF) and United Nations Fund for Population Activities (UNFPA), classifies four variations of FGM ranging from scraping and piercing to complete abscission of all external female genitalia.¹¹³ Typically, the procedure is carried out by an older woman in the community—either a relative or a community circumcizor—without anesthetics, antiseptics, or antibiotics.¹¹⁴ Immediate and long-term health problems are typical and may pose a significant detriment to the individual.¹¹⁵

The United Nations has provided the primary forum for the international discussion regarding FGM and, over the twenty-five years, has shifted the focus to address gender-based violence and discrimination.¹¹⁶ Now, the United Nations defines FGM as a human rights violation, a form of gender-based discrimination, and a form of violence against women and girls.¹¹⁷ FGM violates several rights outlined in the Universal Declaration of Human Rights, CEDAW, and the Convention on the Rights of the Child.¹¹⁸

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111. *Types of Female Genital Mutilation*, WORLD HEALTH ORGANIZATION [WHO], <https://www.who.int/reproductivehealth/topics/fgm/overview/en/> [https://perma.cc/HAS3-KSR8].
112. Elizabeth Heger Boyle et al., *International Discourse and Local Politics: Anti-Female-Genital-Cutting Laws in Egypt, Tanzania, and the United States*, 48 SOCIAL PROBLEMS 524, 528 (2001) (explaining that a health-based approach was less controversial than directly attacking cultural traditions).
113. *Eliminating Female Genital Mutilation: An Interagency Statement—OHCHR, UNAIDS, UNDP, UNECA, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, WHO*, WORLD HEALTH ORGANIZATION [WHO] 1, 4 (2008) https://apps.who.int/iris/bitstream/handle/10665/43839/9789241596442_eng.pdf?sequence=1 [https://perma.cc/WX9M-GMQB] [hereinafter *Interagency Statement*].
114. Beth Williams-Breault, *Eradicating Female Genital Mutilation/Cutting: Human Rights-Based Approaches of Legislation, Education, and Community Empowerment*, 20 HEALTH & HUM. SERVICES 223, 227 (2018).
115. *Id.*
116. U.N. GAOR, 67th Sess. 60th plen. mtg. at 2, U.N. Doc. A/RES/67/146 (Mar. 5, 2013).
117. *Id.*
118. Williams-Breault, *supra* note 114, at 227.

In many societies, FGM is a rite of passage to womanhood with strong cultural origins.¹¹⁹ Justifications for performing FGM include the preservation of ethnic gender identity, femininity, maintaining cleanliness, familial honor, ensuring a woman's fidelity, and the assurance of securing a husband.¹²⁰

Like bride kidnapping, FGM is deeply rooted in cultural traditions and reflect beliefs relating to a woman's honor and purity.¹²¹ The violence and carnage from FGM have garnered worldwide attention and outrage.¹²² The resulting international sentiment aimed at eradicating FGM has influenced changes in policy and law across several countries.¹²³ Both Egypt and the United States passed anti-FGM laws in 1996; Tanzania adopted specific anti-FGM legislation in 1998.¹²⁴

But, also like bride kidnapping, written law is not enough to overcome deeply rooted traditions of shame and power over women's bodies and sexuality. Through women's rights activism, the outcome documents of the Vienna,¹²⁵ Cairo,¹²⁶ and Beijing¹²⁷ international

119. *Id.*

120. *Id.* Mali and Burkina Faso people sometimes believe the clitoris is dangerous and must be removed. Under this view, a clitoris is poisonous and causes a man to become sick or die if it touches him. Other beliefs suggest that an uncut clitoris creates male impotency and kills babies upon delivery. Performing FGM is perceived to minimize a woman's libido and assist her in resisting sexual promiscuity, thus making her a more appealing future wife.

121. *Id.*

122. *See, e.g.,* Ramadan Al Sherbini, *Outrage in Egypt Over Girl's Circumcision Fatality*, GULF NEWS (Feb. 9, 2020), <https://gulfnews.com/world/mena/outrage-in-egypt-over-girls-circumcision-fatality-1.1581253796849> [<https://perma.cc/5FXB-YS3P>].

123. Matilda Aberese Ako & Patricia Akweongo, *The Limited Effectiveness of Legislation Against Female Genital Mutilation and the Role of Community Beliefs in Upper East Region, Ghana*, 17 REPROD. HEALTH MATTERS 47, 47 (2009) (Identifying several governments that implemented legislation criminalizing FGM following CEDAW's recommendations including Benin, Burkina Faso, Ghana, Senegal, and Togo).

124. Elizabeth Heger Boyle et al., *International Discourse and Local Politics: Anti-Female-Genital-Cutting Laws in Egypt, Tanzania, and the United States*, 48 SOC. PROBS. 524, 529 (2001).

125. *See* World Conference on Human Rights, *Vienna Declaration and Programme of Action*, ¶ 38, U.N. Doc. A/CONF/.157/23 (June 25, 1993).

126. This conference truly ignited the debate and discussion on FGM and turned a relatively private problem into a promulgated national discord. *See Rep. of the Int'l Conference on Population and Dev., Cairo*, U.N. Doc. A/CONF.171/13/Rev.1 (Sept. 5–13, 1994).

127. *See Rep. of the Fourth World Conference on Women, Beijing*, ¶¶ 93–95, U.N. Doc. A/CONF.177/20 (Sept. 4–15, 1995).

conferences represent evolving progressivism toward FGM by addressing it as a sexual and reproductive rights concern.¹²⁸ Successful anti-FGM strategies incorporate human rights-based approaches that improve law enforcement, provide education programs focused on women's empowerment, and run campaigns to recruit community actors to lead localized change.¹²⁹

A. *Current FGM Issues and Global Opposition*

While the world has seen great advancements in protecting women's rights through combatting FGM, 2019 was a frustrating year for FGM opponents. While the international community observed the ninth International Day of Zero Tolerance for Female Genital Mutilation on February 6, 2019,¹³⁰ FGM's endurance made headlines; reports from the United Kingdom and the U.S. reminded many that it is not just a developing-world-problem.¹³¹

Even still, FGM's prevalence has decreased dramatically over the past two decades.¹³² But, while the incidence has declined, the United Nations warns that population growth in countries that perform FGM regularly will likely negate this progress.¹³³ Without expanding efforts to eliminate it, more girls will suffer.

128. G.A. Res. 67/146, *supra* note 116, at 1.

129. *See* Williams-Breault, *supra* note 114, at 223.

130. *International Day of Zero Tolerance for Female Genital Mutilation, 6 February*, UNITED NATIONS, <https://www.un.org/en/observances/female-genital-mutilation-day> [<https://perma.cc/SN9K-7969>].

131. Laura Ly, *Charges Dropped in First Federal Genital Mutilation Case in US*, CNN (Nov. 20, 2018), <https://www.cnn.com/2018/11/20/us/female-genital-mutilation-case-charges-dropped/index.html> [<https://perma.cc/ZT8B-RXAN>]; Hannah Summers & Rebecca Ratcliffe, *Mother of Three-Year-Old is First Person Convicted of FGM in UK*, GUARDIAN (Feb. 1, 2019, 2:38 PM), <https://www.theguardian.com/society/2019/feb/01/fgm-mother-of-three-year-old-first-person-convicted-in-uk> [<https://perma.cc/SCD9-5FA5>].

132. FGM rates declined in East Africa from 71% of girls under 14 in 1995 to 8% in 2016. FGM has decreased significantly in that age group in West Africa from 73.6% in 1996 to 25.4% in 2017, and in North Africa from 57.7% in 1990 to 14.1% in 2013. Ngianga-Bakwin Kandala et al., *Secular Trends in the Prevalence of Female Genital Mutilation/Cutting Among Girls: A Systematic Analysis*, BMJ GLOB. HEALTH (2018).

133. *UN Urges Renewed Fight to End Female Genital Mutilation as Populations Grow Where Practice Occurs*, U.N. NEWS (Feb. 6, 2017), <https://news.un.org/en/story/2017/02/550882-un-urges-renewed-fight-end-female-genital-mutilation-populations-grow-where> [<https://perma.cc/AH8H-9QU4>].

Analyzing culture and tradition to reconcile universal imperatives of human rights with cultural values has dominated thinking on anti-FGM policy and programming.¹³⁴ Distinctively, a sexual and reproductive rights perspective refocuses FGM as a gender-based violence problem—linked to a systematic exclusion of women from social, economic, and political participation.¹³⁵ These recommendations do not ignore the personal significance of cultural values but reveal the gender bias in normative definitions of culture and how cultural discourse is used to justify violence against women.

CEDAW recommends that governments take far-reaching policy measures, including educational and healthcare measures, to eliminate FGM.¹³⁶ While laws banning FGM are necessary, grassroots, community-level approaches are best. The most successful anti-FGM procedures incorporate cultural identity while addressing the harmful and subversive nature of culturally ingrained violence against women.¹³⁷ Appropriately, governmental and nongovernmental organizations have embraced community-based approaches for eradicating FGM.¹³⁸

For example, collective abandonment is an effective community-based approach where entire communities choose to reject practicing FGM because it ensures that no single girl or family is disadvantaged by the decision.¹³⁹ The decision to collectively abandon FGM requires that communities be educated about FGM and then engage in discussion and reflection—ultimately reaching a consensus on the issue.¹⁴⁰ The health and human rights components of FGM are preemptively featured in these dialogues and local organizations should participate in raising awareness and educating communities.¹⁴¹ When communities collectively abandon FGM, they participate in a public declaration and celebrate the decision by inviting neighboring

134. Jessica Horn, *Not Culture but Gender: Reconceptualizing Female Genital Mutilation/Cutting*, in *WHERE HUMAN RIGHTS BEGIN* 35, 36 (Wendy Chaykin & Ellen Chesler eds. 2005).

135. *Id.*

136. CEDAW Report, *supra* note 6, at 21–22.

137. *See, e.g.*, Nafissatou J. Diop & Ian Askew, The Effectiveness of a Community Based Educational Program on Abandoning Female Genital Mutilation/Cutting in Senegal, 40 *STUD. FAM. PLAN.* 307, 316 (2009) (listing other governmental and nongovernmental organizations that have since adopted a Tostan-style community empowerment framework for encouraging collective abandonment).

138. *Id.*

139. *Id.* at 309.

140. *Id.*

141. *Id.*

communities,¹⁴² thus building momentum for collective abandonment elsewhere. When fundamental agreements between community members establish the ultimate source of a society's identity and authority, the law and culture must interact harmoniously to effect positive change.

B. Lessons from Senegal

One such example of harmonious interaction between the law and cultural values comes from a community education program developed by Tostan, a Senegalese NGO founded in 1991.¹⁴³ The Tostan community education program seeks to empower women through a broad range of educational and health-promoting activities.¹⁴⁴ Tostan promotes an integrated approach to learning and offers a comprehensive curriculum designed to improve reading, writing, mathematics, and socioeconomic standing.¹⁴⁵ The program incorporates pedagogical techniques like dance, theatre, and games to allow participants to discuss culturally sensitive issues, like FGM, in a relaxed and comfortable environment.¹⁴⁶ Combining these elements of community development, education, and tradition contributed to the monumentally successful declaration in Malicounda Bambara to collectively abandon FGM in 1997.¹⁴⁷

Tostan expanded its workshops across Senegalese communities and established community management committees to emphasize village ownership over the program.¹⁴⁸ These workshops covered human rights, basic hygiene, and women's health with each skill building off the others.¹⁴⁹ Participants engage in discourse and debate and can eventually mobilize entire villages—including men, women, and

142. *Id.*

143. Chi Adanna Mgbako et al., *Penetrating the Silence in Sierra Leone: A Blueprint for the Eradication of Female Genital Mutilation*, 23 HARV. HUM. RTS. J. 111, 124 (2010).

144. Diop & Askew, *supra* note 137, at 307.

145. *Id.* at 308.

146. *Id.*

147. Celia W. Dugger, *Senegal Curbs a Bloody Rite for Women and Girls*, N.Y. TIMES (Oct. 15, 2011), <https://www.nytimes.com/2011/10/16/world/africa/movement-to-end-genital-cutting-spreads-in-senegal.html> [<https://perma.cc/EHF4-SVW7>].

148. Mgbako et al., *supra* note 143, at 124.

149. From these community education programs, FGM among daughters aged ten and younger decreased significantly as reported by women who were directly and indirectly exposed to the program. *See* Diop & Askew, *supra* note 137, at 307–08.

community leaders—to collectively abandon the FGM.¹⁵⁰ Through Tostan's methods, community discussions and social mobilization toward FGM abandonment lead community leaders to contact other closely-connected village and encourage collective FGM abandonment.¹⁵¹

The social convention theory supports the rationale behind the Tostan method.¹⁵² This theory suggests that FGM is such an ingrained social practice for preparing girls for adulthood and marriage that families believe not performing FGM will cause greater long-term harm.¹⁵³ The stigmatization, social isolation, and difficulty in finding a marriage partner for an uncut daughter can be powerful reasons for parents to choose FGM.¹⁵⁴ The Tostan approach, by including education, community dialogue, debate, and collective abandonment enables individuals to question and decline participating in FGM. Findings from Tostan's successful program in Senegal provide evidence-based information to program planners seeking to empower women and discourage harmful traditions.

C. Similarities Between Bride Kidnapping and FGM

Traditional attitudes and customs, including FGM, domestic violence, and forced marriage, continue to subordinate women and girls. FGM and bride kidnapping are cultural manifestations of deeply entrenched gender inequality. FGM and bride kidnapping persist for many reasons. Some societies consider either practice a rite of passage, a prerequisite for marriage, or an attribution to religious beliefs.¹⁵⁵ While they are distinct acts, both FGM and bride kidnapping violate

150. *Community Empowerment Program*, TOSTAN, <https://www.tostan.org/programs/community-empowerment-program/maximizing-impact/> [https://perma.cc/74UR-92NK].

151. *Id.* Villages that participated in Tostan often implemented an enforcement committee to assure that families comply with the declaration to abandon FGM. Bettina Shell-Duncan et al., *Legislating Change? Responses to Criminalizing Female Genital Cutting in Senegal*, 47 LAW SOC. REV. 803, 824 (2013).

152. Bettina Shell-Duncan et al., *Dynamics of Change in the Practice of Female Genital Cutting in Senegambia: Testing Predictions of Social Convention Theory*, 73 SOC. SCI. MED. 1275, 1276 (2011).

153. Social convention theory posits that in extreme instances of gender inequality, FGM is a means for securing a better marriage by signaling fidelity and purity, and therefore becomes a prerequisite of marriage for women. *See id.* at 1275.

154. *Id.*

155. Williams-Breault, *supra* note 114, at 226–27.

human rights and are severe forms of violence toward women and girls.¹⁵⁶

Because FGM is often a significant piece of cultural identity, it can be difficult for families to condemn having their daughters cut.¹⁵⁷ Like bride kidnapping, parents who reject FGM risk condemnation or ostracism, and their daughters are often considered ineligible for marriage.¹⁵⁸ Even parents who do not want their daughters to be victimized by either practice may feel compelled to participate. This cultural significance furthers FGM and bride kidnapping despite state-specific legislation criminalizing the practices.¹⁵⁹

A notable commonality between FGM and bride kidnapping is the participation of older women in furtherance of male dominance over women. In bride kidnapping, by pressuring the new bride to stay, the groom's female relatives help to reproduce patriarchal institutions.¹⁶⁰ The same is true for women who perform FGM on other young women and girls. Often, mothers do to daughters what their mothers did to them.¹⁶¹ These are not exclusively cases of men dominating women, but other women helping to reinforce male authority and furthering dangerous beliefs regarding women's sexuality, value, and honor.

While anti-FGM efforts are imperfect, bride kidnapping opponents should employ methods and precedent developed through successful anti-FGM processes—particularly community-driven education programs. While progress must be made in both arenas, the successes and failures in addressing FGM provide a roadmap for abolishing bride kidnapping.

III. WHEN LAW AND CULTURE CONFLICT

Bride kidnapping is prohibited in every country where it occurs.¹⁶² Similarly, most countries that experience FGM criminalize the

156. CEDAW Report, *supra* note 6, at 14; *Q&A on Female Genital Mutilation*, HUM. RTS. WATCH (June 16, 2010 3:30 AM), <https://www.hrw.org/news/2010/06/16/qa-female-genital-mutilation#> [<https://perma.cc/QE5Z-TYCG>].

157. Katherine McKenzie, *Millions Have Been Traumatized by Female Genital Mutilation. The Practice Must End*, STAT (Mar. 29, 2018), <https://www.statnews.com/2018/03/29/female-genital-mutilation-end/> [<https://perma.cc/V65G-KHC9>].

158. Diop & Askew, *supra* note 137, at 309.

159. Ako & Akweongo, *supra* note 123, at 47; CEDAW Report, *supra* note 6, at 14.

160. Werner, *supra* note 8, at 324.

161. CEDAW Report, *supra* note 6, at 6.

162. Werner et al., *supra* note 4, at 588–89.

practice.¹⁶³ But still, these patterns of violence are culturally-determined customs that reflect social values and beliefs about women.¹⁶⁴ The implementation of human rights treaties varies between countries and signing a treaty does not automatically incorporate its policy into domestic law.¹⁶⁵ Countries will often sign an international treaty but be slow to take further action to give it the force of law.¹⁶⁶

Fine statements in domestic laws or international and regional instruments are not enough to combat systematic discrimination against women. Formal rules yield arbitrary results when they ignore or distort the values of those impacted and present cultural indifference as a positive. Ratifying CEDAW, the Universal Declaration of Human Rights, and implementing local legislation does little to protect women when cultural values do not reflect the law. Rather, it is essential to develop a harmonious culture of respect for internationally stated human rights norms that embrace the State's written law.

A. *Kyrgyz Law*

Currently, Articles 154(2) and 155(2) of the Kyrgyz Criminal Code prohibit abducting a woman to force her into marriage.¹⁶⁷ In 2013, the maximum penalties were increased to ten years imprisonment for abducting a person under the age of 17 and seven years for the kidnapping of a person above that age.¹⁶⁸ This reform required years of advocacy and mobilization—despite Kyrgyzstan ratifying CEDAW, and other international human rights treaties.¹⁶⁹

Article 26(3) of Kyrgyzstan's Criminal Procedure Code defines the crimes subject to private-public accusation as minor misdemeanors and less severe crimes, for which penalties do not exceed two and five years of imprisonment, respectively.¹⁷⁰ This includes rape and other sexually violent acts, but the Criminal Code remains silent on prosecuting crimes of "sexually violent acts."¹⁷¹ Extramarital rape is punishable by

163. See, e.g., Ako & Akweongo, *supra* note 123, at 47.

164. Werner, *supra* note 8, at 328.

165. Martin A. Rogoff, *The International Legal Obligations of Signatories to an Unratified Treaty*, 32 ME. L. REV. 263, 267 (1980).

166. See, e.g., Ako & Akweongo, *supra* note 123, at 47.

167. Criminal Code of the Kyrgyz Republic [Kyrgyz Criminal Code] art. 154, 155.

168. CEDAW Report, *supra* note 6, at 3.

169. *Id.* at 15.

170. *Id.* at 3; see also The Kyrgyz Republic Criminal Procedure Code art. 26(3); Kyrgyz Criminal Code, at art. 10, 11.

171. Kyrgyz Criminal Code, at art.10, 11, 129, 130.

five to eight years imprisonment, but marital rape is not specifically criminalized.¹⁷²

In private-public accusation cases, criminal prosecution is initiated only by a victim's complaint, a legal representative, or a third person and is terminated upon parties' reconciliation.¹⁷³ Per Article 26(4) of the Criminal Procedure Code, grave crimes, including Articles 154(2) and 155(2) of the Kyrgyz Criminal Code, are subject to public prosecution.¹⁷⁴ Public prosecutions do not depend on a criminal complaint and cannot be terminated upon parties' reconciliation.¹⁷⁵ Still, many Kyrgyz police officers reportedly believe they cannot accept complaints from third persons and must close a criminal case once the victim reconciles with the perpetrator and withdraws her complaint.¹⁷⁶

Marriages are legally recognized in Kyrgyzstan if concluded before a State authority or local self-governing bodies authorized to register civil acts; religious ceremonies concerning marriage and family are legally void per Article 1(2) of the Family Code.¹⁷⁷ An amendment to the Criminal Code added a new article which states that participants and accomplices to a religious wedding ceremony with a minor are punishable with imprisonment from three to five years.¹⁷⁸ Article 14 of the Family Code establishes the minimum age of marriage at 18 years and allows for lowering the age of marriage by one year if authorized by the local administration.¹⁷⁹

B. International Law

Any dialogue regarding international law compliance begs the question of why a state party complies with an international agreement. International law is rarely enforced but is usually obeyed.¹⁸⁰ The modern transformation of independence has altered international law; now, international legal norms help construct national identities and

172. See *id.* at art.129; see also CEDAW Report, *supra* note 6, at 3.

173. CEDAW Report, *supra* note 6, at 3.

174. Punishable with five to ten years imprisonment. Kyrgyz Criminal Code, at art. 154(2),155(2).

175. CEDAW Report, *supra* note 6, at 3.

176. *Id.* at 7.

177. Family Code of the Kyrgyz Republic [Family Code], art. 1(2).

178. CEDAW Report, *supra* note 6, at 4.

179. Family Code, at art. 14.

180. Even Hans Morgenthau, a prominent critic of international law, conceded that, "to deny that international law exists as a system of binding legal rules flies in the face of all the evidence." WILLIAM R. SLOMANSON, FUNDAMENTAL PERSPECTIVES ON INTERNATIONAL LAW 11 (6th ed. 2011).

preference through international discourse.¹⁸¹ The growth of international institutions, proliferation of nonstate actors, and the necessity for States to interact transnationally demands that countries play nicely together.¹⁸² By complying with international law, a nation acknowledges the importance of interacting with the transnational legal process and interpreting and internalizing international norms.¹⁸³

By signing the UN Charter, Kyrgyzstan agreed to interact with the transnational legal process by promoting and encouraging human rights and freedom, regardless of sex.¹⁸⁴ By not fostering a legal and social culture that discourages bride kidnapping and reflects international human rights values, Kyrgyzstan fails to uphold its obligation as a United Nations member.¹⁸⁵ Kyrgyzstan violates the UN Charter by failing to enforce existing laws criminalizing bride kidnapping, adopt adequate anti-bride kidnapping legislation, and to prevent perpetrators from engaging in the practice; ultimately failing to promote universal respect for human rights and fundamental freedoms.¹⁸⁶ Kyrgyzstan further violates Articles 55 and 56 for failing to promote well-being when women are subject to violent theft of body, rape, and loss of freedom and dignity.¹⁸⁷

In 1979, the UN General Assembly adopted CEDAW, which became effective September 3, 1981.¹⁸⁸ Kyrgyzstan ratified CEDAW in 1997.¹⁸⁹ The Convention defines gender-based discrimination and outlines an agenda for international action to end such discrimination.¹⁹⁰ CEDAW's underlying philosophy is that "discrimination against women violates the principles of equality of rights and respect for human dignity."¹⁹¹ Under the Convention, state parties must eliminate prejudices and customs rooted in ideas of

181. Harold Hongju Koh, *Why Do Nations Obey international Law?*, 106 YALE L. J. 2599, 2600 (1997).

182. *Id.* at 2624.

183. *Id.* at 2634.

184. U.N. Charter art. 1, ¶ 3.

185. *Member States*, U.N., <https://www.un.org/en/member-states/> [<https://perma.cc/E388-EY8Y>].

186. U.N. Charter art. 1, ¶ 3.

187. *Id.* at art. 55–56.

188. G.A. Res. 34/180, *supra* note 37.

189. *CEDAW Ratifying Members*, U.N. TREATY COLLECTION https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en [<https://perma.cc/S9M3-C7LU>].

190. G.A. Res. 34/180, *supra* note 37.

191. *Id.*

inferiority or superiority of either sex.¹⁹² Article 2 of CEDAW expresses states' responsibilities to provide remedy for women's rights violations and to exercise due diligence in investigating and prosecuting those abuses.¹⁹³ Elaborating on due diligence principles, CEDAW stated that "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation."¹⁹⁴

Though Kyrgyzstan ratified CEDAW, the Universal Declaration of Human Rights, and the Convention on the Rights of the Child, the State continues to commit grave and systematic human rights violations for failing to prevent, protect, and assist victims of bride kidnapping.¹⁹⁵

C. Inadequate Enforcement and Barriers to Remedy

Despite Kyrgyzstan's legal declaration that bride kidnapping is prohibited, victims rarely seek legal assistance, and when they do, often law enforcement and social pressures bar any remedy.¹⁹⁶ The Kyrgyz Republic party has acted to encourage victims of bride kidnapping to file criminal complaints.¹⁹⁷ The Ministry of Internal Affairs established a department for legal assistance that is mandated to provide support to victims of domestic violence.¹⁹⁸ Local police can issue temporary protection orders valid for 15 days, while court orders are valid for one month.¹⁹⁹ But still, cultural norms do not reflect the *all-fine-and-good* law.

Often, kidnapped brides are unaware of their rights and Kyrgyzstan's protective mechanisms.²⁰⁰ Victims report that, if they knew the law provided for punishment kidnappings, they would have

192. *Id.* at art. 5(a).

193. *Id.* at art. 2.

194. Gen. Assembly, Rep. of the Comm. on the Elimination of Discrimination against Women of its Eleventh Session, ¶ 9, U.N. Doc. A/47/38 (1993).

195. See G.A. Res. 34/180, *supra* note 37; G.A. Res 217 A (III), Universal Declaration of Human Rights (Dec. 10, 1948); G.A. Res 44/25, Convention on the Rights of the Child (Nov. 20, 1989). CEDAW Report, *supra* note 6, at 15.

196. CEDAW Report, *supra* note 6, at 13.

197. *Id.* at 10.

198. See *id.* (finding that the department reported "more than 5,000 protection orders issued in domestic violence cases in 2016, 28 were related to bride kidnapping victims.").

199. *Id.*

200. STAKEEVA ET AL., *supra* note 89, at 15.

reported to law enforcement agencies.²⁰¹ Insufficient education, low literacy levels, and information vacuums create barriers to justice.²⁰²

Fundamentally, successful women's-rights activism and policy provides options to women greater than submitting to violence and discrimination. Giving women more options to remedy injustice is essential to a human-rights based approach to eradicating bride kidnapping. But that must include a legal remedy and access to justice. Kyrgyzstan's justice system is profoundly lacking in this respect. Barring victims' access to justice, the Kyrgyz Code of Criminal Procedure requires a victim's testimony to be supported by forensic evidence.²⁰³ While forensic evidence can be obtained regionally by trained medical personnel in cases of physical violence, it can only be obtained from the State Forensic Centre in Bishkek in case of psychological violence.²⁰⁴ Consequently, cases involving psychological violence are either not reported to the courts or the courts acquit the accused.²⁰⁵ Parents or accomplices of the kidnapper are rarely sentenced, although complicity in the kidnapping is punishable under the Criminal Code.²⁰⁶ Other barriers include limited trust in the justice system, fear of stigmatization, court proceedings costs, possible criminal consequences for family members, and the frequent interviewing of victims by male police officers or together with the perpetrator.²⁰⁷

IV. THE LAW ISN'T ENOUGH

Bride kidnapping is a barbaric practice that, even in the most ideal of circumstances, postulates women as chattel for the taking. In its most gruesome rendition, bride kidnapping kills women like Burulai. Bride kidnapping impacts thousands of women annually and is linked to higher rates of domestic violence and lower birth weights than consensual marriages.²⁰⁸ One year after Burulai's murder, the Kyrgyzstan government has done little to implement new laws to protect women and girls. In a 2019 interview, Hillary Margolis—

201. *Id.*

202. *Id.*

203. CEDAW Report, *supra* note 6, at 8.

204. *Id.*

205. *Id.*

206. KIRGYZ CRIMINAL CODE, at art. 154(2), 155(2).

207. CEDAW Report, *supra* note 6, at 9.

208. *Id.* at 4–5. *Birth Outcomes*, *supra* note 29, at 1.

researcher at Human Rights Watch—noted that “[p]assing laws is a good first step, but it is far from enough to ensure real protection.”²⁰⁹

Much like FGM, bride kidnapping is a systemic, violent practice perpetuated against Kyrgyz women—shrouded behind weak declarations of tradition and custom. Bride kidnapping is also illegal, yet the practice continues.²¹⁰ A disconnect exists between the written law, the actions of kidnappers and their coconspirators, and police and governmental inaction. It is necessary to evaluate this disconnect—and to identify how law and culture interact—before recommending a course forward to eradicate bride kidnapping.

Generally, there are three sociolegal viewpoints regarding the connection between and operationalization of culture and law: 1) the law is an independent variable used to explain culture, 2) culture is an independent variable that explains variations in the law, and 3) the law *is* culture.²¹¹ Within this paper, this heuristic explores the relationship between bride kidnapping’s illegality in Kyrgyzstan and the pervasiveness of the practice. Ultimately the idea that culture explains variations in the law, married with foundational aspects of viewing the law *as* culture, is most compelling in addressing bride kidnapping.

A. The Law as an Independent Variable

Culture is defined differently across a multitude of research areas to include beliefs, morals, and deeply seated assumptions about how the world operates.²¹² Law, in some sense, is more straightforward—it is categorized as statutes, case law, or how individuals perceive law and order.²¹³ Some scholars believe law is an independent variable and culture is thus the dependent and reactionary outcome.²¹⁴ These scholars strive to explore how legal processes shape collective expectations of how the world operates—even identifying how the law defines and shapes social identities in race, ethnicity, sexual orientation, gender, disability, and class.²¹⁵

209. Maya Oppenheim, *Women at Risk of Murder Over Failure to Crack Down on Bride Kidnapping in Kyrgyzstan, Experts Warn*, INDEPENDENT (May 28, 2019, 3:56 PM), <https://www.independent.co.uk/news/world/asia/bride-kidnapping-forced-marriage-women-murder-kyrgyzstan-hrw-a8933351.html> [https://perma.cc/75GD-UEB7].

210. *Id.*

211. Abigail C. Saguy & Forrest Stuart, *Cultural and Law: Beyond the Paradigm of Cause and Effect*, 619 THE ANNALS OF THE AM. ACAD. OF POL. AND SOC. SCI., 149, 149 (2008).

212. *Id.* at 150.

213. *Id.*

214. *Id.* at 153.

215. *Id.* at 154.

Using the law to explain culture, or vice versa, poses a risk of tautological reasoning in which, for example, one cites a specific national law as evidence of a corresponding cultural shift while concomitantly citing that same cultural shift to explain the given law.²¹⁶ While circular in reasoning, this demonstrates the causal barrier between law and culture is very thin. Some studies identify the concept of “path dependency” to capture the dynamic interplay between law and culture.²¹⁷ For example, some find that collective memory—the combined experience and memory of a large group of people—impacts the way a country commemorates past instances of trauma and is impacted by legislation and enforcement.²¹⁸ This idea of collective memory is more thoroughly discussed below and highlights the idea that direct categorization and acknowledgment of past traumas through the law can effect cultural change.

However, this notion that the law is an independent variable, and that culture is thus the responsive outcome is not compelling when evaluating Kyrgyzstani bride kidnapping. This theory ignores the notion that a society can have several subcultures with specific and unique societal preferences and expectations. It ignores the power of collective memory in a small group of people who carry out this practice. For example, bride kidnapping primarily impacts poorer ethnic Kyrgyz and the practice is often connected to a collective memory of tradition, masculinity, and tribalism.²¹⁹ Further, one need not look hard to recognize that making bride kidnapping illegal has done little to curb the practice in Kyrgyzstan.²²⁰ Though the law does not need to fully lean on culture, there is no denying that the law is not the most effective means for restructuring cultural norms.

The law does not originate in a vacuum, free of constraints. Legislation must take account of past actions *and* long-standing cultural customs.²²¹ Recognizing this relationship between the law and social norms allows for a more sensitive conceptualization of law that does not ignore the human nature of law makers and constituents. Law makers must wrestle with the wants of their constituents, cultural norms and taboos, and their political reputation. No matter one's opinions toward their government—senators, legislators, politicians, etc.—are human.

216. *Id.* at 156.

217. *Id.*

218. See generally Joachim J. Savelsberg & Ryan D. King, *Institutionalizing Collective Memories of Hate: Law and Law Enforcement in Germany and the United States*, 111 AM. J. SOCIO. 579 (2005).

219. CEDAW Report, *supra* note 6, at 4

220. See generally Oppenheim, *supra* note 209.

221. Saguy & Stuart, *supra* note 211, at 156.

So, with human leaders and human constituents comes human wants and needs for recognition, power, and legitimacy. Much is the same motivation for perpetrators of bride kidnapping. Sociologists have identified that some specific identity categories have only gained social legitimacy after being institutionalized as legal identities through the law.²²² The legal process then shapes the cultural collective memory and further reiterates these characteristics and identities as legitimate and recognized by society. Could emphatically categorizing bride kidnapping victims help to destigmatize women and girls who have escaped their abusers? One challenge is demonstrating the diffusion process these legal categorizations and decisions have across society. This often results, again, in the circular and tautological rationale in simultaneously identifying a cultural happening and a law as both the cause and effect to explain a given change.

B. Culture as an Independent Variable

Viewing culture as an independent variable from the law puts law and legal practices in the spotlight—objects of interest explained by cultural factors. Much of this viewpoint also builds upon foundational theories developed by Émile Durkheim.²²³ Durkheim believed law was an institutionalized body of preexisting collective moral agreements.²²⁴ Law is thus, not autonomous, but tightly welded to social forces.²²⁵ Some scholars take this idea further by asserting that legal culture and individual judicial decisions exist only through reference to customs, values, and social behavior.²²⁶ This explanation yields two distinct schools of thought, one where specifically cultural factors primarily influence the law, and another where noncultural forces—such as economics—primarily influence the law.²²⁷

Conceptualizing cultural from noncultural mechanisms is conceptually and methodologically sticky, and potentially misleading. Just as it is difficult to speak of noncultural political factors, so too it is difficult to discuss the most “purely economic” phenomena without including cultural understandings of exchange, use value, and the acceptable way to pursue that value. Ultimately, culture embeds itself

222. *Id.* at 154.

223. *See generally* EMILE DURKHEIM, *THE DIVISION OF LABOR IN SOCIETY* (George Simpson trans., The Free Press of Glencoe, Illinois 1960) (1933).

224. *Id.* *See also* Saguy & Stuart, *supra* note 211, at 151.

225. *Id.*

226. *Id.*

227. Saguy & Stuart, *supra* note 211, at 151.

in institutions, legal or otherwise.²²⁸ This is a central theme of law *as* culture, more specifically discussed below.

The second concept postulates that culture is not so dramatically contrasted to noncultural factors. While the first reflects the particular structure of authority within a given cultural group, the second approach draws upon the differences between cultures to explain different legal outcomes.²²⁹ For example, Savelsberg and King drew comparisons between hate crime laws in United States and Germany—both countries having histories of hatred and excess cruelty against minorities.²³⁰ Both countries have different collective memories of their own cultural trauma which produces different hate law characteristics. In Germany, markers and symbols of collective memory are self-critical and acknowledge domestic evils as well as praising foreign heroes.²³¹ German hate laws reflect this inward focus and self-criticism and are specifically tied to the horrors and atrocities the German state carried out in World War II.²³²

American collective memory is far less self-critical and is based on a contrast of foreign evils and domestic heroes.²³³ Domestic atrocities, like the forced disintegration of Native Americans and institutionalized slavery, do not appear as official state action.²³⁴ Unlike Germany, these domestic evils are not referenced or looked to in hate crime laws in the United States.²³⁵ Instead American hate crime legislation focuses primarily on individual perpetrators and victims; the American collective memory individualizes these harms and positions them in an ahistorical context.²³⁶

228. *Id.*

229. *Id.*

230. *See Holocaust History*, HOLOCAUST MUSEUM & LEARNING CENTER (2020), <https://hmlc.org/holocaust-history/> [<https://perma.cc/H848-5QN5>]; *see also* EQUAL JUSTICE INITIATIVE, RECONSTRUCTION IN AMERICA: RACIAL VIOLENCE AFTER THE CIVIL WAR (2020).

231. German collective memory focuses on the historic conditions leading to the end of the Weimar Republic, the rise of the Nazi Party, and the state-organized genocide of 6 million Jews and extermination of 6 million others during the Holocaust. *See generally* Jeffrey K. Olick & Daniel Levy, *Collective Memory and Cultural Constraint: Holocaust Myth and Rationality in German Politics*, AM SOCIO. R. (1997); *see also* Saguy & Stuart, *supra* note 211, at 152–53.

232. Saguy & Stuart, *supra* note 211, at 153.

233. *Id.*

234. *Id.*

235. *Id.*

236. *Id.*

It is imperative to avoid evoking national culture to explain differences in legal or cultural practices. Countries are not homogeneous or cohesive in culture and citizens rarely share a common identity that drives their actions and individual preferences. Authors Delgado and Stefancic emphasize that the values, meanings, and symbols of the dominant culture are often a manifestation of unequal power exerted through social, economic, and political supremacy.²³⁷

Identifying differences in cultures to explain different legal outcomes is critical to evaluating the different cultural responses to bride kidnapping in Kyrgyzstan. Bride kidnapping is effectively limited to ethnic Kyrgyz.²³⁸ This fact alone represents the nonhomogeneous Kyrgyzstani state and identifies a specific subculture that must be considered. Though ethnic Kyrgyz make up the majority of Kyrgyzstan's population,²³⁹ and the practice is illegal,²⁴⁰ the persistence of bride kidnapping displays a manifestation of unequal power over Kyrgyz women exerted through social and political supremacy.

C. The Law is Culture. Or is it?

Most compelling is the idea that the law and culture are not mutually exclusive. The law shapes and dictates human action;²⁴¹ so, it must be sensitive to people's expectations regarding what the law should be in specific circumstances. But sometimes these expectations run counter to official legal narratives. Such is bride kidnapping; although official legal narratives abhor the practice, it is rampant in Kyrgyz society.²⁴²

A third type of research abandons the independent-dependent model entirely and investigates law *as* culture.²⁴³ Legality, and therefore illegality, is conceptualized by interpretive cultural frameworks through which individuals understand their lives.²⁴⁴ Abandoning the cause-and-effect models shifts attention from legislative decisions to commonplace

237. See generally RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* (2001).

238. Charles Becker, Susan Steiner & Lin Zhao, *Forced Marriage: Models of Ala-kachuu 3* (For Presentation at the Ass'n for Compar. Econ. Stud. Sessions & Allied Soc. Sci. Ass'ns Annual Meetings, Jan. 4-7, 2018).

239. Kyrgyzstan Population 2020, WORLD POPULATION REVIEW, <https://worldpopulationreview.com/countries/kyrgyzstan-population/> [<https://perma.cc/TZ9B-CDJH>].

240. Werner et al., *supra* note 4, at 584, 588–89.

241. Saguy & Stuart, *supra* note 211, at 158.

242. CEDAW Report, *supra* note 6, at 4.

243. Saguy & Stuart, *supra* note 211, at 158.

244. *Id.*

locations like workplaces and communities and conceptualizes culture as inventories to help people shape their lives.²⁴⁵ This idea emphasizes that the law is much more than formal code—instead, it is impossible to even consider the law without accounting for the preferences and practices of ordinary citizens.²⁴⁶ Individuals actively create law and systems of order when no formal legal agent, including businesses and governments, is at play.

A citizen's relationship with the law is rooted in tradition, history, and expectations—not simply written code.²⁴⁷ Viewing the law as culture can be a powerful tool for restructuring social norms, but policy-writers must vigilantly guard against exaggerating the extent to which culture is homogeneous and universally shared by all subgroups within a given nation—such is the downfall of culture-as-an-independent-variable models. Failing to do so will yield little in benefit to underrepresented groups, and only express the cultural values, meanings, and expectations of powerful subcultures. Research positioning law *as* culture has reconceptualized legality as a cultural framework through which individuals interpret their lives. Viewing the law as culture offers a nuanced and dynamic treatment of law as a site of cultural meaning that is sensitive to contingent factors. The shift of attention from the opinions and decisions of formal legal groups onto everyday life, social movements, and workplace culture represents a development in legal studies that builds on cultural moments and resources.

Social justice activists generally conceptualize the role of law in social change in one of three ways: 1) the instrumentation of law to change allocation of concrete resources, 2) the political impact the law has in empowering marginalized communities, and 3) the cultural shifts as law causes transformative assumptions that are shared by all members of a society.²⁴⁸ While each of these frameworks sustains the notion of law as a means for social change, it also accounts for differing approaches to the law's role in shaping culture.²⁴⁹ These distinct perceptions inform whether a given behavior is considered unlawful, and in turn, what remedy is considered appropriate.

This view is the most compelling when addressing societal shifts and implementing policy to combat bride kidnapping. Much like efforts to eradicate FGM, viewing law *as* culture when combatting bride kidnapping creates space to conceptualize restructuring the allocation

245. *Id.*

246. *Id.*

247. *Id.* at 158–59.

248. *Id.* at 159.

249. *Id.*

of resources, empower women and girls, and transform assumptions regarding masculinity, family, and feminine honor and value.

The law's power relies on the values, beliefs, and behavior of individuals.²⁵⁰ The written law has less power than the perception of the law by those who would invoke or violate it. If individuals are not willing to embrace or conform to the law, then it has little hold in effecting change.²⁵¹ Legal rules only shape behavior when individuals are aware of the law and expect them to be enforced.²⁵² For many in Kyrgyzstan, bride kidnapping's illegality is not common knowledge.²⁵³ Those that know it is illegal also know there are few to no negative consequences for kidnappers and their coconspirators.²⁵⁴ These expectations surrounding bride kidnapping are shaped by many factors including prior experiences, social beliefs surrounding a woman's virginity, familial norms, and historic social apathy toward victims.²⁵⁵

The social stigma toward bride kidnapping victims poses a great barrier for women and girls to seek legal relief for their trauma. This perpetual and ingrained idea that victims are unvaluable is a problem that the law cannot solve on its own. The law is pervasive, but not determinant. The law defines and constrains individual choices, but very rarely does it directly determine them.²⁵⁶ Thus, it is critical to embrace key elements from the theory that the law *is* culture when creating a plan of action against bride kidnapping.

V. PROPOSAL: OUTRAGE AND INTEGRATED POLICIES

The collectivity of individual preferences establishes cultural norms and customs.²⁵⁷ Those preferences depend on socially imparted identities and socially distributed resources.²⁵⁸ Subsequently, collective preferences depend on how resources are evaluated and how alternatives

250. *Id.* at 151.

251. *See generally id.*

252. *See* Kenworthy Bilz & Jance Nadler, *Law, Moral Attitudes, and Behavioral Change in* THE OXFORD HANDBOOK OF BEHAVIORAL ECONOMICS AND THE LAW 245 (Eyal Zamir & Doron Teichman eds. 2014).

253. *See* CEDAW Report, *supra* note 6, at 8.

254. Human Rights Watch, *Reconciled to Violence State Failure to Stop Domestic Abuse and Abduction of Women in Kyrgyzstan*, HUM. RTS. WATCH 97 (Sept. 2006).

255. *See id.* at 121–22; *see also* CEDAW Report, *supra* note 6, at 4.

256. *See* Saguy & Stuart, *supra* note 211, at 157.

257. GUYORA BINDER & ROBERT WEISBERG, LITERARY CRITICISM OF LAW 463 (2000).

258. *Id.*

to those preferences are presented.²⁵⁹ The law influences all conditions concerning preferences so, the law cannot simply reflect social predilections but must also help compose society and its characters. But the law is not the dominant force ordering life and culture.²⁶⁰ Even with a robust set of rules, the law yields arbitrary results if cultural norms and preferences are not properly married with the law. Such is the case of bride kidnapping in Kyrgyzstan; the law is not enough.

A. Outrage is the Greatest Weapon

Bride kidnapping is a culturally ingrained practice and preference—often tied to ideas of masculinity and tribal identity.²⁶¹ Regardless of any action taken by the United Nations or local government, eradicating bride kidnapping requires greater international attention, local motivation, viable alternatives to abduction, and—frankly—outrage. Like addressing FGM, combatting bride kidnapping necessitates public responses that echo international pressures which result in collective, local decisions to abandon the practice. This section argues that successful anti-FGM approaches demonstrate the scale, intentionality, and intensity of work necessary to combat gender-based violence, stimulate outrage, and change social preferences surrounding bride kidnapping. Further, State policy must work in tandem with the law to restructure cultural norms and preferences.

There are several recent examples of how international and local outrage has instigated change in rule-of-law issues. For example, the perpetrators who raped and killed a young woman on a bus in India a few years ago were quickly tried and sentenced—quicker than any recorded rape case in India.²⁶² The wave of international pressure and local uproar caused by this gang-rape prompted amendments to India's rape laws and led to the only rape conviction in Delhi that year, despite 706 rapes being reported.²⁶³ The international pressure likely caused an increase of reported rapes, which has nearly doubled since 2012.²⁶⁴ In

259. *Id.*

260. *Id.*

261. Borbieva, *supra* note 59, at 150.

262. See, e.g., Sumnima Udas, *Covering the Rape Case that Changed India*, CNN (Dec. 15, 2013), <http://www.cnn.com/2013/12/04/world/asia/india-rape-problemudas/> [<https://perma.cc/7ZHC-ZWTB>].

263. Sara Gates, *Of 706 Rape Cases Reported In Delhi In 2012, Only 1 Resulted In Conviction*, HUFFINGTON POST (Dec. 10, 2013), http://www.huffingtonpost.com/2013/12/10/delhi-rape-one-conviction-706-cases-2012_n_4419374.html [<https://perma.cc/7ZHC-ZWTB>].

264. Naomi Harlin Goodno, *A Carrot or a Stick? Strengthening the Rule of Law with a Stick: Failure to Enforce Sexual Assault Laws as a Crime Against Humanity*, 39 UNIV. PA. J. INT'L L. 491, 498 (2017).

India, international pressure and outrage lead to a positive change in law, law enforcement, and civilians' perception of the law.²⁶⁵ In Sudan, international pressure rescued a pregnant woman who was unlawfully imprisoned for her religion.²⁶⁶ In Malaysia, a forty-year-old rapist who attempted to avoid prosecution by marrying the twelve-year-old girl he raped was uncommonly convicted.²⁶⁷

Presently, Americans are seeing the effect outrage has on effecting change in response to George Floyd's killing by an unapologetic police officer.²⁶⁸ This event of extreme brutality and violence at the expense of an unarmed Black man motivated scores of people—domestically and internationally—to take to the streets in protest and demand a restructuring of police interaction with the public.²⁶⁹ Since Floyd's killing, headlines of his death, and the death of other unarmed Black Americans monopolized the news headings of every major U.S. media source—even briefly drowning out COVID-19 news.²⁷⁰ Though the Black Lives Matter movement is not a new message, and Black Americans have long been advocating for justice reform—the deaths of

265. *Id.* at 531.

266. Steve Almasy, *Sudanese Christian Woman who Once Faced Death Penalty Arrives in U.S.*, CNN (Aug. 1, 2014), <https://www.cnn.com/2014/07/31/us/new-hampshire-sudanese-woman/index.html> [<https://perma.cc/7KHS-6E6Z>].

267. Liz Gooch, *Malaysia's Child Brides*, AL JAZEERA (Aug. 12, 2016), <http://www.aljazeera.com/indepth/features/2016/08/malaysia-child-brides160810123204474.html> [<https://perma.cc/SZX6-P9VD>] (explaining how men accused of rape attempt to marry the alleged victims to avoid liability).

268. Matt Furber, Tim Arango & John Eligon, *Police Veteran Charged in George Floyd Killing Had Used Neck Restraints Before*, N.Y. TIMES (Sept. 11, 2020), <https://www.nytimes.com/2020/09/11/us/derek-chauvin-george-floyd-trial.html> [<https://perma.cc/KS2L-GHXM>].

269. Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (July 10, 2020), <https://www.nytimes.com/article/george-floyd-protests-timeline.html> [<https://perma.cc/D9SB-MEHV>].

270. *See e.g.*, Julie Bosman & Amy Harmon, *Protests Draw Shoulder-to-Shoulder Crowds After Months of Virus Isolation*, N.Y. TIMES (July 1, 2020), <https://www.nytimes.com/2020/06/02/us/coronavirus-protests-george-floyd.html> [<https://perma.cc/CD8M-NYJG>]; *see also* Brad Parks, *George Floyd's Death was 'Murder' and the Accused Officer 'Knew What he was Doing,' Minneapolis Police Chief Says*, CNN (June 24, 2020), <https://www.cnn.com/2020/06/24/us/minneapolis-police-chief-comment-george-floyd-trnd/index.html> [<https://perma.cc/3R2K-M3L6>]; *see also* *After George Floyd*, NBC NEWS <https://www.nbcnews.com/george-floyd-death> [<https://perma.cc/SZ3F-R3YY>].

George Floyd, Breonna Taylor, and Elijah McClain brought an unprecedented level of outrage to the American public.²⁷¹

This outrage is still fresh—and exacerbated even more by police recently shooting Jacob Blake (an unarmed Black man) in Kenosha, Wisconsin—but already local and state governments are responding to this heightened pressure from the public.²⁷² The Minneapolis city council announced on June 7, 2020 that it will dismantle its police force and restructure law enforcement from the ground up;²⁷³ Democrats in Congress introduced a sweeping police reform bill that would make lynching a federal crime, ban chokeholds, and curtail qualified immunity for those involved in wrongful injuries or death;²⁷⁴ and the mayor of New York City pledged to reorganize funding from the city's police department toward youth and social services.²⁷⁵

Similarly, this outrage and discussion regarding race and America has flowed beyond public policy into private business and personal relationships. The protests have sparked wide-ranging conversations about the responsibilities industries and organizations have to address institutionalized racism.²⁷⁶ Direct calls for powerful companies to internally and publicly address racism and inequality in their organizations caused well-known CEO's to resign—either in disgrace from their own acts of racism coming to light,²⁷⁷ or in solidarity with

271. Richard Fausset & Shaila Dewan, *Elijah McClain Died After He Was Detained. Now He's Being Remembered*, N.Y. TIMES (June 30, 2020), <https://www.nytimes.com/2020/06/20/us/elijah-mcclain-police-killings.html> [<https://perma.cc/6MY7-CPMN>].

272. Dionne Searcey & John Eligon, *Minneapolis Will Dismantle Its Police Force, Council Members Pledge*, N.Y. TIMES (June 7, 2020), <https://www.nytimes.com/2020/06/07/us/minneapolis-police-abolish.html> [<https://perma.cc/X6D3-KYKZ>].

273. *Id.*

274. Heather Caygle, John Bresnahan & Sarah Ferris, 'Black Americans Want to Stop Being Killed': Democrats unveil sweeping police reform Bill, POLITICO (June 8, 2020), <https://www.politico.com/news/2020/06/08/democrats-to-unveil-sweeping-police-reform-bill-307108> [<https://perma.cc/74QD-2JQZ>].

275. See Bill de Blasio (@NYCMayor), TWITTER (June 7, 2020, 3:51 PM), <https://twitter.com/NYCMayor/status/1269718728305934337> [<https://perma.cc/T9JB-CCNZ>].

276. See Sophia Ankel, *30 Days That Shook America: Since the Death of George Floyd, the Black Lives Matter Movement Has Already Changed the Country*, BUSINESS INSIDER (June 24, 2020, 8:58 AM), <https://www.businessinsider.com/13-concrete-changes-sparked-by-george-floyd-protests-so-far-2020-6> [<https://perma.cc/DYL9-JRK2>].

277. See Kim Severson, *Bon Appétit Editor Adam Rapoport Resigns*, N.Y. TIMES (Sept. 8, 2020), <https://www.nytimes.com/2020/06/08/dining/bon-appetit-adam->

the movement²⁷⁸—and for brands to restructure their marketing in pursuit of racial equality.²⁷⁹ Though there is much work to be done toward racial equity in the United States, public outrage is a more effective catalyst than any policy implementation alone. But policy must reflect that outrage and directly address collective trauma.

Nearly two years after Burulai's death, much of the societal outrage has abated and little has changed. The government has failed to make good on its promises to act. However, it is not enough to wait for another woman to die at the hands of her kidnapper before harnessing discontentment with bride kidnapping and implementing political and social change. 2020 has already been a deadly year for women in Kyrgyzstan. At least three women were killed by their husbands or partners in the first two weeks of 2020.²⁸⁰ Though the Kyrgyzstani Interior Ministry claims that domestic violence is a priority, inaction is married with platitudes about the work being "difficult."²⁸¹ Outrage is the best weapon for creating social change, but women need not die to create a change in social norms and collective preferences.

B. Effecting Change Before Another Woman Dies

As with all sexual and reproductive rights issues, eliminating FGM and bride kidnapping requires intervening in some of the most intimate and tightly guarded areas of social tradition, cultural preference, and personal relationships. But still, the politicization of FGM by conservative governments and religious institutions demonstrates how gender-based violence is fundamental to maintaining a particular,

rapoport.html [https://perma.cc/SE6A-9XJ8]; Victoria Albert, *CrossFit CEO Greg Glassman resigns After George Floyd Comments Spark Outrage*, CBS NEWS (June 10, 2020, 7:20 AM), <https://www.cbsnews.com/news/crossfit-ceo-greg-glassman-resigns-george-floyd-tweet-outrage/> [https://perma.cc/US43-KDMQ].

278. Kaya Yurieff, *Reddit Cofounder Alexis Ohanian Resigns from Board, Urges Seat be Filled by Black Candidate*, CNN (June 5, 2020, 5:38 PM ET), <https://www.cnn.com/2020/06/05/tech/alexis-ohanian-reddit/index.html> [https://perma.cc/3JDH-DQDD].
279. Tiffany Hsu, *Aunt Jemima Brand to Change Name and Image Over 'Racial Stereotype'*, N.Y. TIMES (June 17, 2020), <https://www.nytimes.com/2020/06/17/business/media/aunt-jemima-racial-stereotype.html> [https://perma.cc/937S-YVWU].
280. Hillary Margolis, *Grim News from Kyrgyzstan on Domestic Violence*, HUM. RTS. WATCH (March 5, 2020), <https://www.hrw.org/news/2020/03/05/grim-news-kyrgyzstan-domestic-violence> [https://perma.cc/2H8D-DV9E].
281. Ulan Rysbekov, *Combating Domestic Violence is a Priority for the Internal Affairs Bodies*, KABAR (Jan. 17, 2020, 11:34 AM), <http://kabar.kg/news/bor-ba-s-semeinym-nasiliem-iavliaetsia-prioritetnoi-dlia-organov-vd-ulan-rysbekov/> [https://perma.cc/M8W8-HQC6].

highly public, gendered status quo.²⁸² Much like the present discussion surround race relations in the United States,²⁸³ advocates must harmonize policy and law to create a critical debate surrounding bride kidnapping at every level of society to change cultural behaviors and collective preferences. An integrated approach toward eradicating bride kidnapping should incorporate broader legislation to protect victims while engaging in community-driven dialogue that promotes gender equality and provides protective services. Any new law without tangential behavioral shifts or access to legal remedies will be ineffective at best.

For example, following the 1994 Cairo Programme of Action, the Egyptian Task Force successfully generated critical debate at every level of Egyptian society and encouraged changes in governmental positions on FGM.²⁸⁴ This public debate allowed for attitudinal and behavioral change at the community level and created a more conducive context for government-led strategies against FGM.²⁸⁵ Additionally, the community-based methods developed by Tostan exemplify the benchmark model for generating productive discourse around women's rights issues.²⁸⁶

To extend lessons from anti-FGM activism in Egypt, Senegal, and Nigeria, culturally-specific gender dynamics and sexuality must form the foundation on which programming, research, and policy are created and executed.²⁸⁷ Accepting bride kidnapping as part of a broad system

282. Horn, *supra* note 134, at 55.

283. *See generally Lesson of the Day: How Black Lives Matter Reached Every Corner of America*, N.Y. TIMES (Sept. 8, 2020), <https://www.nytimes.com/2020/09/08/learning/lesson-of-the-day-how-black-lives-matter-reached-every-corner-of-america.html> [<https://perma.cc/M44S-5P7N>].

284. The Egyptian Task Force is an NGO that crafted a benchmark strategy to harmonize advocacy, mobilization, and research relating to FGM. The Task Force emphasized gender-rights while developing a behavior-change model that provided women and girls a sense of bodily autonomy. By building a comprehensive social approach, the Task Force allowed communities to develop ownership about abandoning FGM. Horn, *supra* note 134, at 49.

285. The Task Force's primary contribution was creating space for FGM discussions across social, professional, religious, and gender lines between activists and governmental representatives. *Id.* at 52.

286. *See About Us*, TOSTAN <https://www.tostan.org/about-us/mission-history/> [<https://perma.cc/J323-LQXT>] (describing Tostan's origin story, how the program has expanded across eight African countries, and is supported at the national, international, and grassroots levels by activists and practitioners worldwide).

287. Following the 1994 Cairo agenda, the Egyptian Minister of Health falsely stated that FGM was a dying practice. The next day CNN broadcast

of gender inequality means that interventions must work within this wider system and not exclusively on bride kidnapping issues.

From this premise, a reflection on successful anti-FGM programs suggests that integrated policy, data collection, prevention, protection, and prosecution are crucial to a comprehensive, culturally specific, rights-based approach.²⁸⁸ These elements work harmoniously, and success depends on their congruity and interdependence to restructure collective memory and preferences. It is vital to adopt a rights-based approach to bride kidnapping to ground policy rationale—and to frame these issues beyond that of culture, tradition, and social preferences—to guaranteeing basic human dignity.

1. Integrated Policy and Data Collection

Bride kidnapping is often an unquestioned part of Kyrgyz society;²⁸⁹ to cause change, there must be a sort of cultural disruption and public outrage. So, much like the Tostan method, interventions should facilitate new spaces where sexuality, gender roles, and bride kidnapping can be criticized and transformed. Under such methods, allowing participants to raise controversial topics, like bride kidnapping and domestic violence, on their own accord allows for greater community mobilization and social change.²⁹⁰ Women's groups, literacy classes, planned training, and workshops are venues for this new discussion. Advocacy activities can bring what is often considered a

footage of a young Egyptian girl undergoing FGM. Subsequent international outrage and pressure forced the government to address FGM and restrict the practice. This is one of the earliest examples of public examples of outrage causing a direct positive change. *See* Horn, *supra* note 134, at 48–49. In Nigeria, the Value Female Network works to change cultural values by speaking against FGM through educational workshops, sensitivity training, collective abandonment, and retraining cutters with valuable skills like breadmaking, hairdressing, and farming. Linus Unah, *This Nigerian NGO is Using Education to Eradicate Female Genital Mutilation*, PACIFIC STANDARD (Oct. 5, 2017), <https://psmag.com/social-justice/nigerian-ngo-female-genital-mutilation> [<https://perma.cc/YF7E-NCRS>].

288. *See generally Declaration of the Committee of Ministers on the Need to Intensify the Efforts to Prevent and Combat Female Genital Mutilation and Forced Marriage in Europe*, COMM. OF MINISTERS OF THE COUNCIL OF EUR. (Sept. 13, 2017) <https://rm.coe.int/female-genital-mutilation-and-forced-marriage/16807baf8f> [<https://perma.cc/6V5Y-FGAF>] [hereinafter FGM Report].

289. *New Law in Kyrgyzstan Toughens Penalties for Bride Kidnapping*, UNITED NATIONS, <https://www.un.org/youthenvoy/2013/09/new-law-in-kyrgyzstan-toughens-penalties-for-bride-kidnapping/> [<https://perma.cc/8JX3-HBY3>].

290. Mgbako et al., *supra* note 143, at 124.

private, unimportant, or shameful discussion into the media, government, policy, and law.

A central tenant of integrated policy is creating a strong network of links between public authorities, service providers, NGOs, and the greater population.²⁹¹ By coordinating a network of highly trained individuals, the burden is not exclusively on the government and law enforcement.²⁹² Modeling the Netherlands' well-established chain of action in combatting FGM,²⁹³ Kyrgyzstan should connect and involve every relevant actor. In the Netherlands, youth healthcare, law enforcement, midwives, schools, gynecologists, pediatricians, maternity care, and general practitioners are trained in FGM cases and understand their supportive roles and responsibilities.²⁹⁴ For Kyrgyzstan to model this approach, holding regular meetings organized by region allows each chain member and stakeholder to understand their counterparts' roles while addressing local and communal bride kidnapping experiences.²⁹⁵

The basis for policy implementation requires establishing a structure for action supported by extensive and accurate data.²⁹⁶ The necessary data for thoughtful policymaking involves a continual analysis of bride kidnapping frequency, risk estimation, and quantifying causes. Research and population-based surveys that consider the socioeconomic standing of victims, perpetrators, and their families can monitor the prevalence of kidnapping and suggest a root cause. Monitoring and evaluating the effectiveness of existing legal mechanisms is essential to improving women's access to justice.

Aside from research and surveys, public and private agencies should gather administrative data to better track how these agencies use resources and monitor the capacity and availability of support for victims.²⁹⁷ Since changing social perceptions often necessitates fine-tuning policy efforts, assessing the impact of policy and intervention methods is necessary to ensure their effectiveness. The Kyrgyz government and NGOs should use this data to raise public awareness of women's rights issues and protective mechanisms by broadcasting the information across the country through every media avenue.

291. See FGM Report, *supra* note 288, at 22.

292. *Id.* at 32.

293. *Id.* at 22.

294. *Id.*

295. *Id.*

296. See generally *id.*

297. *Id.*

Improving access to reliable data will reduce perceptions that bride kidnapping is not prevalent or is simply a women's problem.²⁹⁸

2. Prevention and Intervention

States must destigmatize bride kidnapping victims who assert their rights. To uphold international law, Kyrgyzstan must eradicate prejudices, stereotypes, and practices that cause bride kidnapping in collaboration with the education system, media, civil society, and local communities.²⁹⁹ Because bride kidnapping is community-specific,³⁰⁰ efforts to combat the custom must be concerted to address relevant social issues in a sustainable and community-driven manner; this requires engaging all possible actors at all possible levels. To do so, NGOs and the Kyrgyz government should partner to implement Tostan-style community workshop programs. It is important to engage communities directly impacted by bride kidnapping to utilize their first-hand knowledge while empowering them to reject *kyz ala kachuu*.³⁰¹ By involving local actors, communities can display ownership over these programs and workshops by considering local preferences while working to eradicate harmful traditions.³⁰²

In a community-based approach, focusing on bride kidnapping's detrimental impacts can motivate changes in attitude while a complementary approach to prosecution and protecting victims can enforce a behavioral shift.³⁰³ Under a Tostan-style model, establishing workshops to encourage discourse surrounding bride kidnapping and other sensitive topics allows communities to consider collective abandonment.³⁰⁴ Within community-based approaches is the need to partner with influential community leaders—this may require engaging elders, religious leaders, and local figureheads. Most ethnic Kyrgyz are

298. *Id.*

299. G.A. Res. 34/180, *supra* note 37, at art. 2(e), 5(a).

300. *See* FGM Report, *supra* note 288, at 12.

301. Ako & Akweongo, *supra* note 123, at 53.

302. *See generally Why Community Engagement Matters*, PA. STATE CTR. FOR ECON. AND COMTY. DEV., <https://aese.psu.edu/research/centers/cecd/engagement-toolbox/engagement/why-community-engagement-matters> [https://perma.cc/5R5L-CUPJ].

303. Ako & Akweongo, *supra* note 123, at 53.

304. In most successful anti-FGM projects involving community education workshops, workshop organizers do not directly raise FGM issues. Instead, organizers have found that, without fail, workshop participants will bring up the topic of FGM on their own, after an environment of trust and safety has been established within the workshop setting. Mgbako et al., *supra* note 143, at 124, 127.

Muslim.³⁰⁵ Accordingly, it is necessary to work with local religious leaders who can lend authority to the discussion and dispel religious association or support for bride kidnapping. This will decrease nonconsensual religious wedding ceremonies, especially if paired with new legislation prohibiting religious marriage ceremonies without first obtaining a state registration of marriage.

Additionally, male involvement is necessary for sustainable change in patriarchal social approaches. Targeting those most likely to abduct women is pragmatic at the least. Engaging men in community-driven workshops will increase collaboration and unity, making change more supportive and less adversarial.³⁰⁶ Because many men who engage in bride kidnapping report issues with masculine identity or low self-esteem, particularly relating to economic standing, male engagement can reinforce positive avenues for masculinity instead of abducting women.³⁰⁷ By allowing young men to question oppressive social mechanisms based on perceived-honor, men can better protect themselves from harmful social norms and counter social norms that are detrimental to women and girls.³⁰⁸ Additionally, Tostan-style workshops that implement curriculum on literacy, mathematics, and finances can improve participants' socioeconomic standing.³⁰⁹ Thus, providing men an alternative to kidnapping to avoid paying a bride price.

Intervening during adolescence is critical because decisions made during childhood can impact health and developmental outcomes for women and society at large.³¹⁰ The starting point of any strategy addressing gender discrimination is to expand women's and girls' access to education.³¹¹ Women and girls forced into marriage are often denied education or even removed from educational opportunities by their assailants.³¹² State-sponsored scholarships, conditional cash transfers, and other forms of support can help women and girls access and complete their education.

305. Borbieva, *supra* note 59, at 144.

306. *See generally* FGM Report, *supra* note 288.

307. UNITED NATIONS POPULATION FUND IN KYRGYZ REPUBLIC, GENDER IN SOCIETY PERCEPTION STUDY, NATIONAL RESEARCH RESULTS 133 (2016).

308. FGM Report, *supra* note 288, at 37.

309. *See* TOSTAN, *supra* note 286.

310. *Interagency Statement*, *supra* note 113, at 14.

311. *Id.* at 15.

312. CEDAW Report, *supra* note 6, at 8.

CEDAW notes that legal illiteracy prevents victims from reporting their cases to the police.³¹³ During and following the 2013 Kyrgyz Criminal Code amendments to combat bride kidnapping, public awareness of its criminality increased, but legal literacy remained low, especially with reporting procedures.³¹⁴ Under CEDAW Article 2(c), Kyrgyzstan must ensure victims of bride kidnapping have recourse to affordable, accessible, and timely remedies with legal aid.³¹⁵ This access to justice may require that fees for legal aid and filing documents, as well as costs for transportation, room, and board, be reduced or waived.

To improve legal literacy, Kyrgyzstan should provide supportive environments and legal literacy workshops that embolden victims to claim their rights without fear of retaliation.³¹⁶ The State should partner with organizations that provide legal services to victims.³¹⁷ Kyrgyzstan should integrate educational programs on women's rights and gender equality—including legal literacy programs—into curricula at every education level to eliminate stereotyped gender roles and deter gender-based violence. Then, women and girls can participate in society without fear of violence and abduction. This educational narrative need not end in the classroom. By adopting guidelines for training media professionals to embrace gender-sensitive bride kidnapping coverage, the media can educate the public and avoid gender-discriminatory content.

3. Protection

The 2008 Kyrgyz Republic's State Periodic Report to CEDAW stated that hotlines for bride kidnapping victims were available when, in reality, there was no such hotline.³¹⁸ According to NGOs, the only existing hotline is not well-known nor oriented towards bride

313. *Id.* at 9.

314. *Id.*

315. G.A. Res. 34/180, *supra* note 37, at art. 2(c).

316. STAKEEVA ET AL., *supra* note 89, at 15.

317. For example, the United Nations Development Programme provides legal services, legal aid, and free legal consultations to marginalized individuals. *Free Legal Aid Comes to Kyrgyzstan*, UNDP <https://www.eurasia.undp.org/content/rbec/en/home/blog/2016/8/31/Free-legal-aid-comes-to-Kyrgyzstan.html> [<https://perma.cc/T9LW-9Y8T>]; *Legal support and Promotion of Public Interests*, PRECEDENT PARTNER GROUP, <http://precedent.kg/en/#remodal432> [<https://perma.cc/7DMT-WHXJ>].

318. STAKEEVA ET AL., *supra* note 89, at 11.

kidnapping victims.³¹⁹ Some NGOs run other grant-supported hotlines, but when the funding ends, so does the hotline.³²⁰

Kyrgyzstan can mitigate this deficiency by providing a sufficient number of safe and adequately equipped crisis centers that provide medical and psychological care, emergency hotlines, legal services, and shelters for victims and their children. Trained counselors and social workers should staff these centers to enable victims and witnesses to report kidnapping occurrences. As many of these services depend on NGO-run crisis centers,³²¹ the State should immediately increase funding to provide these centers with sufficient financial support.

4. Amending the Law and Increasing Vehicles for Prosecution

This paper seeks to establish that prosecuting perpetrators and justice for victims is essential to eliminating violence against women. Prosecuting perpetrators can provide closure for victims, retribution for abusers, and send a clear message to society that Kyrgyzstan's society does not tolerate violence against women. While changing the law surrounding bride kidnapping is not enough to end the practice, justice will never come without it. Legal avenues for victims of bride kidnapping are insufficient in Kyrgyzstan, and an ineffective and complicit police force renders existing law worthless.³²²

Women may decide not to seek justice for fear of stigmatization. The public and police officers generally disapprove when bride kidnapping victims and their families file complaints against abductors and their accomplices.³²³ Kidnapped women often feel guilty for accepting pressure and giving in to the marriage, so they consider themselves accomplices in the crime and think they do not have a right to demand justice.³²⁴ Further, many Kyrgyz police officers reportedly believe they must close a criminal case as soon as the victim has withdrawn her complaint.³²⁵ Prosecuting bride kidnapping and protecting women should not be tied to a victim's willingness to press charges or testify against her perpetrator.

When bride kidnapping victims report to law enforcement with physical injuries, medical services should immediately be provided, and

319. *Id.*

320. *Id.*

321. *Id.*

322. Police officers often express apathy toward victims of bride kidnapping and discourage victims from reporting. Sometimes they are corrupted by familial or social influence and are paid bribes not to investigate bride kidnapping. *See* CEDAW Report, *supra* note 6, at 7.

323. STAKEEVA ET AL., *supra* note 89, at 11.

324. *Id.*

325. CEDAW Report, *supra* note 6, at 7.

forensic examinations should be conducted. According to the law On Social-Legal Protection and Defense Against Domestic Violence, police officers are required to escort victims to medical and social service centers, but this seldom happens.³²⁶ CEDAW reported that this provision is not employed because of a lack of funding.³²⁷ It is therefore crucial that medical centers and social services centers focusing on women's health and wellbeing are given higher priority and greater funding by the State.

To expand bride kidnapping victims' access to justice and options for remedy, legislation reforms and enforcement of existing laws should be executed. The Criminal Code, Administrative Code, Family Code, and other related legislation need to be amended and harmonized to remove contradictions and to provide protective mechanisms for bride kidnapping victims.

Bride kidnapping participants, organizers, and psychological abusers should be held criminally liable under Article 155 of the Criminal Code.³²⁸ To strengthen Article 155 on punishment for aggravating circumstances, like inflicting bodily injury, causing someone to commit suicide, collusion, collective crime, and aiding and abetting should be introduced into the Code. Further, the State party's failure to specifically criminalize marital rape denies victims of bride kidnapping protection against rape within forced marriage. Accordingly, Kyrgyzstan should specifically criminalize marital rape to the same degree that extramarital rape is criminalized under the Criminal Code.³²⁹

The State should improve police performance to ensure victims' rights are properly protected by integrating policy measures that improve legal literacy and engage law enforcement in constructive dialogue about prosecuting bride kidnapping. Specific women's rights training with special focuses on domestic violence and bride kidnapping should be provided to courts of elders, women's councils, and local government officials.

To curb violence against women, adequate funding should be allocated from the government budget to implement community-based programs that incorporate integrated policy to redefine and criticize cultural norms and preferences. By facilitating space for productive discourse surrounding culturally-sensitive issues, NGOs and

326. *Id.* at 11. *See also Kyrgyzstan: New Domestic Violence Law*, HUM. RTS. WATCH (May 10, 2017) <https://www.hrw.org/news/2017/05/10/kyrgyzstan-new-domestic-violence-law> [<https://perma.cc/S8U3-G5JU>].

327. CEDAW Report, *supra* note 6, at 10.

328. Kyrgyz Criminal Code, *supra* note 167, at art. 155.

329. *Id.* at art.154, 155.

governmental actors can mobilize communities to reject bride kidnapping and other practices harmful to women and girls.

VI. CONCLUSION

The persistent tug-of-war between cultural and legal norms shows that States need more than written-law to end gender-based violence. Existing cultural norms disproportionately influence law enforcement actors in Kyrgyzstan, so the law does little to address *kyz ala kachuu on its own*. Violence against women exists in every society, but certain violent crimes, like FGM and bride kidnapping, are culturally determined practices that exhibit strong ties to a sense of cultural identity and preference.³³⁰ As human rights advocates try to curb these violent acts, conflicts may arise between activists and communities. For effective change, those who confront gender violence to advance human rights must work with community members who justify such practices in the name of tradition and acknowledge that law and culture are not mutually exclusive variables. Neither is one entirely dependent on the other. The law is pervasive, but not determinant—it constrains individual choices, but very rarely determines them.³³¹ Thus, it is critical to embrace key elements from the theory that the law *is* culture when creating a plan of action against bride kidnapping.

Luckily, international anti-FGM advocacy provides a blueprint that does just that. International and regional law and policy acknowledge the discriminatory impact of bride kidnapping and communicates indignation toward cultural validity and tradition as defenses to gender-based violence. Sociopolitical discourse and practical methods developed by anti-FGM activists provide undeniable evidence for the effectiveness of integrated, community-driven approaches to addressing culturally ingrained gender violence that is reflected in law and policy.

In bride kidnapping, shame is the central tool employed to convince a victim to accept a marriage.³³² Collective cultural preferences regarding shame and honor build Kyrgyzstan's cultural norms.³³³ Since all conditions affecting local preferences are themselves influenced by law, the law cannot simply reflect cultural norms. Instead, the law must intervene into culture and direct society away from gender-discriminatory practices. But, even with a robust set of rules, the law is ineffective if cultural norms and penchants are inharmonious with the law. Policymakers should implement the tools and tactics discussed

330. Werner, *supra* note 8, at 328.

331. Horn, *supra* note 134, at 42–43.

332. STAKEEVA ET AL., *supra* note 89, at 8.

333. Werner, *supra* note 8, at 315.

above, as developed by anti-FGM methods applied in Senegal, Egypt, Nigeria, and around the world to effect positive change for Kyrgyzstan's brides. Simply, the law is not enough.

